

22.08.2022
Court No. 19
Item No. 2 (DL)
CP

WPA No. 20449 of 2019

Sri Swapan Chakraborty
Vs.
The State of West Bengal & ors.

Mr. Sumonto Ganguly
Mr. Pranab Palit

...for the petitioner.

Mr. Bibek Jyoti Basu
Mr. Uttam Kumar De

...for the State.

Mr. Santimay Bhattacharyya
Mr. Z. Haque
Mr. H. K. Mahata

....for the respondent no. 6.

Liberty is granted to correct the serial number of the respondents in the cause title, here and now.

The petitioner alleges inaction of the Officer-in-Charge, Jagatballavpur Police Station. It is contended that despite two complaints having been filed before the police authorities, no steps have been taken. Allegation is against the respondent no. 4. It is the specific contention of the petitioner that the respondent no. 4 tried to assault the petitioner and grab the two privies belonging to the petitioner. Reliance has been placed on a decree passed in Title Appeal No. 499 of 1966. According to the petitioner, the learned Sub-ordinate Judge, Howrah by a

judgment and decree dated June 28, 1968 set aside the judgment and order of the learned Munsif and decreed the suit filed by the predecessor-in-interest of the petitioner.

It is submitted by the learned advocate for the respondent no. 4, that the judgment and decree passed in Title Appeal No. 499 of 1966 was set aside by this court. The said fact has been suppressed by the petitioner. It is submitted that thereafter, another suit was filed in 2007 on the selfsame cause of action which was also dismissed. An appeal therefrom was filed and the appeal was dismissed. A second appeal was filed before this court, which was dismissed for default. An application for restoration has been filed. It is further submitted by the respondent no. 4 that there has been a dispute over the two privies. The respondent no. 4 had approached the concerned authority under the West Bengal Land Reforms Act, 1955 for correction of the record of rights. Such application was allowed and the petitioner has filed an application before the learned Land Reforms and Tenancy Tribunal.

The police report in the form of an instruction has been filed and the same be kept on record. It appears that an enquiry was made. The enquiry indicated that the dispute was with regard to

possession of the two privies situated in the northern side of the petitioner's land.

The respondent no. 4 claimed that the said privies were constructed by the said respondent. On the other hand, the petitioner claims to have constructed the same.

The enquiry further revealed that civil suits had been filed by the petitioner's predecessor-in-interest. The issue between the parties, is over title and possession. The police authorities have also specifically stated in the said report that the respondent no. 4 was an octogenarian and the allegation of physical assault could not be substantiated.

The issues which have been contended before the court with regard to possession and title, cannot be decided in this proceeding. The police authorities are not empowered under the law to execute any order or decree which the petitioner relies upon. Moreover, the respondent no. 4 has submitted documents to show that the said decree passed in the Title Appeal has been set aside by this court and the other suits have also been dismissed. The police authorities have also reiterated these facts in the report. The writ petition suffers from suppression.

Under such circumstances, the writ petition is disposed of, directing the police authorities of the

Jagatballavpur Police Station to keep a vigil in order to maintain peace. All the other issues which have been raised, cannot be decided in this proceeding.

The writ petition is accordingly disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)