

S/L 186
4.7.2022
Court. No. 19
Sn

WPA 22812 of 2019

Bapi Halder & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Gobinda Chandra Baidya
... for the petitioners

Sk. Md. Galib
Ms. Subhra Nag ..for the State

The police authorities have filed a report, from which it appears that as many as 5(five) investigations were conducted on the basis of the complaints filed by the petitioners over the land dispute between the petitioners and the respondent no.7. All the investigations resulted in the filing of a charge-sheets against the respondent no.7. The cases investigated are as follows”:-

i) Basanti Police Station Case No. 367/19 dated June 14, 2019 under Sections 447/188/427/379/506/34 of the Indian Penal Code.

ii) Basanti Police Station Case No. 705/18 dated January 16, 2018 under Sections 188/427/379/506/34 of the Indian Penal Code.

iii) Basanti Police Station Case No. 18/18 dated January 16, 2018 under Sections 188/427/379/506/34 of the Indian Penal Code.

iv) Basanti Police Station Case No. 679/17 dated September 6, 2017 under Sections 447/188/427/506/34 of the Indian Penal Code.

v) Basanti Police Station Case No. 07/17 dated January 2, 2017 under Sections 447/188/427/379/506/120B/34 of the Indian Penal Code.

The police report further states that both the parties have maintained status quo with regard to cultivation over Dag Nos. 247 and 257 of Mouza Chalk Pitambar Dutta.

It is the contention of the petitioners that the order of status quo must be restricted to the extent of the land allegedly owned and occupied by the respondent no.7 as per prayer "ka" in the plaint. Thus, the petitioners allege that the police authorities should not interfere with the other portions of plot nos. 247 and 257, which are in exclusive possession of the petitioners.

The respondent no.7 filed Title Suit No. 262 of 2018 before the learned Civil Judge, Senior Division, Baruipur. When the prayer for interim order of injunction was rejected, Misc. appeal was preferred. In the Misc. Appeal parties were directed to maintain status quo with regard to possession, nature and character of the suit property.

The suit property as per the plaint, includes the entire land including the land owned and occupied by the petitioners.

It is the contention of the petitioners that the police authorities ought to have considered the plaint and implemented the order of status quo exclusively to the portions claimed by the respondent no.7 as per prayer "ka" in the plaint. Instead, the police authorities are disturbing the petitioners from cultivating on their own land. It is further urged that the nature and extent of the property which was purchased by the respondent no.7, has been mentioned in the respective deeds and as such the police authorities should not have restrained the petitioners in any way.

Although, the prayer of the respondent no.7, in the plaint was restricted to his share of the property purchased in Dag nos. 247 and 257, yet, the lower appellate court had passed an order of status quo on the entire suit property. The suit property as per schedule of the plaint includes plot nos. 247 and 257 comprising of the land of the petitioners as well.

From the report of the police authorities, it appears that as the lower appellate court had directed status quo to be maintained over the suit property, the police authorities had sought to implement the order of status quo.

This Court finds, in effect, the petitioners are urging the Court to modify the order of the lower appellate court. The petitioners have urged the Court to clarify and direct the police authorities to restrict the implementation of the order of status quo to the property mentioned under prayer “ka” of the plaint.

This Court is not in a position to pass such classificatory order, as the same would amount to modifying the order passed in the Misc. Appeal.

It is urged by the petitioners that the petitioners have already approached the learned lower appellate court for necessary clarification/modification.

Under such circumstances, this writ petition is disposed of.

The merits of the claims of the petitioners have not been gone into and the learned lower appellate court shall decide such issues on the basis of the records and submissions.

There will be, however, no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)