

13 20.12.2022
NB Ct. 39

WPA 26589 of 2022

Maa Muktakeshi Potato Freezing Pvt. Ltd. & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Debabrata Saha Roy,
Mr. Neil Basu,
Mr. Rahul Kumar Singh.
...for the petitioners.

Mr. Santanu Kr. Mitra,
Mr. Mirza Kamruddin.
...for the State.

Mr. Raghunath Adhikary,
Ms. Tanaya Banerjee,
Ms. Divya Kar.
...for the respondent no.8.

This is an application under Article 226 of the Constitution of India praying for directions upon the respondent authorities to render police assistance in obtaining access to the lawfully owned land measuring about 8.36 acres lying and situated at Mouza-Baguapara, J.L. No.129, Plot No.32 and 33 under Joypur Police Station, Bankura and to see that no illegal construction is caused by the private respondent no.8 in this regard.

Affidavit of service filed on behalf of the petitioners is taken on record.

A report filed on behalf of the State is also taken on record.

Learned counsel appearing for the petitioners submits as follows. The petitioners are the owners of the demarcated land. Earlier, by an order dated 14.03.2022 passed in WPA

3358 of 2022, this Court directed the BL&LRO, Joypur to pass a reasoned order in respect of demarcation of the property in question. Subsequent orders were passed by this Court recording that the earlier orders culminated in the order dated 29th August, 2022 indicating that the demarcation of land has already been done. The only prayer of the petitioners is that the private respondent and his men shall not prevent the petitioners from entering into the demarcated land owned by the petitioners and enjoying it and/or constructing a boundary wall in respect of the same. The petitioners are ready and willing to pay the cost of such police assistance.

Learned counsel appearing on behalf of the State relies on a report and submits as follows. The respondent no.8, was the owner of an adjoining piece of land. However, by an order of the Civil Court, they are supposed to hand over the possession to a bank. In fact, the bank has already been taken over the physical possession of the demarcated property. On the complaints filed by the petitioners, FIRs have been lodged against the private respondent. In respect of one such FIR, a charge sheet has already been submitted.

Learned counsel appearing on behalf of the private respondent submits as follows. No hindrance whatsoever has been caused by the private respondent to the petitioner in enjoying his demarcated property. However, no effort should be made by the petitioners to grab any other property belonging to the private respondent.

I have heard the submissions of the learned counsels appearing on behalf of the parties and have perused the writ petition and the report filed by the State.

It appears that the land in question has already been demarcated by the competent authority and this has obtained a stamp of approval from this Court.

It also appears that the petitioners could fairly entertain an apprehension that if they tried to put a boundary wall in respect of their land, there could be a possibility of breach of peace.

In the interest of justice, I direct the respondent authorities to ensure that no breach of peace takes place if the petitioners try to construct boundary wall at the demarcated line. If necessary, sufficient police protection will be provided by the Officer-in-Charge, Joypur Police Station at the cost of the petitioners.

Since affidavits have not been called for, allegations are not admitted by the parties.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)

