

8.8.2022
Sl.No5
sn

W.P.A. No.11373 of 2020

Susanta Roy

Versus

The State of West Bengal & Ors.

Mr. Bhudeb Chatterjee

Mr. Sanjib Kr. Ghosh

... for the Petitioner.

Mr. Bibek Jyoti Basu

Mr. Kapil Guha

...for the State

Despite service, none appears on behalf of the respondent nos. 7 to 11. Let the affidavit of service be taken on record.

The petitioner alleges inaction on the part of the Inspector-In-Charge, Chandernagore Police Station and his higher authorities. The petitioner claims to be the absolute owner of the property marked as 'YNA' in a schedule of a deed of partition bearing no. 2430 of 1991, executed on November 28, 1991 and registered on November 30, 1991.

It is alleged that the property belongs to the father of the petitioner, namely, Hari Charan Roy. After his father's demise, the petitioner and his brother and one married sister inherited the property. On the basis of the partition deed, they had demarcated their respective portions.

It is submitted that it had been agreed that necessary side space would not be required to be

maintained as the partition was an amicable one and one single plot had been partitioned.

The petitioner obtained a site plan and sanction plan from the Commissioner, Chandernagore Municipal Corporation. The respondent no.7 objected to the construction. Proceedings under Section 144(2) of the Code of Criminal Procedure was initiated by the respondent nos.7 to 11. The petitioner alleges that a lot of money had been invested for the construction, but due to continuous disturbances by the respondent nos.7 to 11, such construction could not be carried out. Necessary police assistance is prayed for.

The, Inspector-In-Charge, Chandernagore Police Station, has filed a report. It appears on enquiry, that the Chandernagore Municipal Corporation had directed the construction to be stopped. The police did not stop the construction. On receipt of the complaint, LSI Depasree Sengupta was assigned to conduct an enquiry. She submitted a report indicating that the petitioner had been granted a sanction plan for construction. It was also submitted that the allegation of threat and disturbance by the respondent nos. 7 to 11, could not be substantiated.

The dispute as narrated in the writ petition appears to be violation of a partition deed, entered

into between the petitioner and his siblings. This dispute cannot be decided by the police authorities. The petitioner has obtained a sanction from the municipal authority and the respondents have objected to the construction. The police report also indicates the same. The issues have to be settled by the appropriate forum.

The only order that can be passed in this writ petition is that the police authorities shall ensure that there is no breach of peace in an around the said land.

This writ petition is disposed of.

There will be no order as to costs.

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

(Shampa Sarkar, J.)