

27.04.2023
Ct. No.1
Item No.7
PG/KS

M.A.T.213 of 2023
With
I.A. No. CAN 1 of 2023
+
CAN 2 of 2023
+
CAN 3 of 2023
Prasanta Ray
-Vs.-
Nilima Roy & Ors.

Mr. Samim Ahammed
Mr. Arka Maity
Ms. Ambiya Khatun
.....for the appellant

Mr. Biswaroop Bhattacharya
Mr. Srijit Kr. Rath
Mr. Sukumar Sarkar
.....for the writ petitioners/respondents

Mr. Tapan Mukherjee
Mr. Rajat Dutta
.....for the State

1. This intra-Court appeal is directed against the order dated 27th June, 2022 in W.P.A. 16970 of 2021. The appellant is a third party to the proceedings and had sought leave to file this appeal.
2. The learned advocate appearing for the respondents/writ petitioners would vehemently oppose such a prayer. However, on going

through the impugned order, we find that the matter concerns an immovable property and the ultimate issue would be, who is in possession of the property.

3. The third party/appellant claims that he is in possession of the property, which is denied by the respondents/writ petitioners. In any event, the police authorities cannot examine the question of title or possession, as claimed by both the parties and all that they can do is to ensure that the law and order is not disturbed in the locality on account of the dispute between the third party/appellant and the writ petitioners. In fact, the Division Bench of this Court in an earlier round of litigation at the instance of the respondents/writ petitioners in M.A.T. 1752 of 2011 had passed an order on 6th March, 2012 directing the Officer-in-Charge, Pandua Police Station to see that no breach of peace takes place in and around the area in question under any circumstances. With the above observation, the order passed by the learned Single Bench in the writ petition was set aside and the appeal was disposed of.
4. Therefore, if at all the appellant apprehends that the respondents/writ petitioners would dispossess him by using police force, it is well

open to the appellant to give a counter-complaint and if a complaint is given, then the respondents/police shall enquire into the matter as a counter-case and proceed in accordance with law.

5. With the above observations, the appeal and the connected applications are disposed of.
6. There shall be no order as to costs.
7. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T. S. SIVAGNANAM)
ACTING CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)