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Ct 14

WPA 4428 of 2023

Bikash Chandra Das & anr.

-vs-

State of West Bengal & ors.

Mr. Ujjal Ray

Mr. Sk. Abdur Rahim

...for the petitioners

Mr. Mrinal Kanti Ghosh

...for the State

Mr. Dhananjay Banerji

Ms. Oindrila Ghosh

.....for the respondent Nos. 7 to 9

This is an application under Article 226 of the constitution of India praying for direction upon the respondents, particularly, the respondent No. 3 herein to take action against the private respondent on the basis of the written complaints made by the petitioners.

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

The report submitted on behalf of the State is also taken on record.

Learned counsel appearing on behalf of the petitioners submits as follows. A partition suit was filed between the co-sharers and a preliminary decree was passed. The petitioners wanted to have the portions demarcated, but the private respondent with the help of local anti-socials threatened and intimidated the petitioners and tried to prevent him from doing so. Representations were made to the police authorities, but to no avail.

Learned counsel appearing on behalf of the respondent submits as follows. No final decree has been passed in this case, not even a commission being issued for local inspection. Therefore, there is no question of petitioners trying to *suo motu* demarcate the portion. The allegations levelled of threat and intimidation are denied.

Learned counsel appearing on behalf of the State relies on a report, which is taken on record, and submits as follows. Since it is not known which portion belongs to whom, it is not possible to have the land demarcated by one of the parties without issuance of any commission for such purpose. In any event, the police authorities have no role in this. Only if there is an order passed by the competent Court can the police be expected to render help in executing the said order.

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

The matter arises out of a civil dispute between the parties over an ancestral property. A civil suit is pending and a preliminary decree has been issued. However, there is no order passed by a competent Court that could require the police to render assistance for demarcation of the property.

Therefore, no case is made out for passing any direction in favour of the petitioners in this regard.

However, in the interest of justice the police authorities would keep vigil at the locale and ensure that the

order of the Court is not violated by any of the parties.

With these observations, the writ petitioner is disposed of.

Urgent photostat certified copy of this order may be delivered to the learned advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta, J.)