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Ct 14

WPA 5532 of 2023

Binapani Dey
-vs-
State of West Bengal & ors.

Mr. Ujjal Ray
Mr. Sk. Abdur Rahim
...for the petitioners
Sk. Md. Galib
Shafiq Dewan
...for the State

This is an application under Article 226 of the constitution of India, inter alia, praying for direction upon the respondent authorities to ensure prevention of breach of peace and tranquility and to ensure peaceful enjoyment in respect of the petitioner's land which is adjacent to the land of the private respondent and to investigate into the allegations against the miscreants.

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

Despite service no one appears on behalf of the private respondent.

The State is represented.

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

Learned counsel appearing for the petitioner submits as follows. The petitioner is an octogenarian citizen and is the owner of the land in question. She noticed that the adjacent land owner had encroached upon her land. This

prompted her to file a civil suit. An injunction was granted in favour of the petitioner. Yet, the private respondent along with unknown miscreants kept on harassing and intimidating the petitioner for which the petitioner had to lodge complaint before the police and other authorities. But, the police has not sufficiently addressed such grievances.

Learned counsel appearing on behalf of the State relied on a Report, which is taken on record, and submits as follows. An order of *status quo* was granted by the learned civil Court. On the complaint lodged from the petitioner's side, an FIR has already been registered being Tarakeswar P.S. case No. 235 of 2022 dated 06.10.2022. In fact a charge-sheet was submitted in the same subsequently. At the instance of the petitioner, steps have been taken under Section 107 of the Code. The petitioner has also approached the learned Magistrate under Section 144 of the Code. At present, there is no question of further breach of peace at the locale.

I have heard the learned counsels for the parties and perused the writ petition and the report filed by the State.

It appears that a civil suit is pending in which a status quo was granted.

If the petitioner wants to have police help the same has to be in relation to an order passed by a Court.

So far as the complaint made in respect of the allegations of threat and intimidation and the like are concerned, a case has already been registered. In fact, a

charge-sheet has also been submitted.

In view of this, I do not find that any further order need be passed by this Court.

However, police authorities shall maintain vigil at the place and shall ensure that the order of the Court is not violated by anyone.

With these observations, the writ petition is disposed of.

Since affidavits have not been called for, the allegations contained in the writ petition, are deemed not to have been admitted.

Urgent photostat ceritifed 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.)