

27.03.2023.
Court No.13
Item No. 41
ap

W.P.A. No. 5281 of 2022
Prabash Mondal @ Provash Mondal
Versus
The State of West Bengal & Ors.

Mr. Shibaji Kumar Das.

...For the petitioner.

Sk. Md. Galib,
Mr. Kapil Guha.

...For the State.

Mr. Saumitra Banerjee,
Md. Giasuddin Mulla.

...For the respondent nos.5 to 8.

The writ petitioner and the private respondents are co-sharers in a property. Title Suit No. 150 of 2004 is pending before the learned Civil Judge (Senior Division) 7th Court at Alipore.

The Civil Court had initially ordered injunction that was modified in an appeal to a “Status Quo”. The parties continue to engage and scuffle with each other constantly.

A preliminary decree has been passed in the suit declaring entitlements of the petitioner as well as the private respondents in the land. A Commissioner of Partition has been appointed. He is yet to submit a report.

It appears from the report of the Kashipur Police Station that they have registered as many as five complaints as FIRs and investigation has resulted in three charge-sheets and two FRTs.

This Court is of the view that the disputes between the parties can only be settled, once the Commissioner of Partition has filed a report in the Court below and a final decree is passed.

In the above circumstances, this Court directs the learned Civil Judge (Senior Division) 7th Court at Alipore to pass final decree in the matter after considering the report of the Commissioner of Partition. The Commissioner shall submit his report to the Court below within a period of one month from date.

The Court below shall pass final decree within a period of two months thereafter.

The Officer-in-charge, Kashipur Police Station shall ensure that there is absolutely no breach of peace in the area.

The report of the Officer-in-charge, Kashipur Police Station dated 20th March, 2023 in the form of instructions addressed to the State Advocate be taken on record.

With the aforesaid directions, the instant writ petition shall stand disposed of.

There will be no order as to costs.

The petitioner shall communicate this order to the Court below immediately.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(*Rajasekhar Mantha, J.*)