

05-07-2023
ct no. 14
Sl. 31
Sayandeep

WPA 7899 of 2023
Sri Puspendra Krishna Kar Mahapatra
-Versus-
The State of West Bengal & Ors.

Mr. Sukanta Das
.....for the petitioner
Ms. Jyotsna roy Mukherjee
Ms. Srijani Mukhopadhyay
.....for the State
Mr. Uttam Bhattacharya
Mr. Kaustav Mishra
.....for the respondent Nos. 10,11

This is an application under Article 226 of the Constitution of India praying for direction upon the respondent authorities to take cognizance against the accused by instituting the criminal case and further directing police personnel to carry out the orders passed by the learned Civil Court for stopping the illegal construction over the suit property.

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

Report filed on behalf of the State is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the owner of the land in question. Although the private respondents are neither co-sharers nor adjacent land owners, they have been trying

to illegally grab the property of the petitioner. The petitioner was constrained to file a civil suit in this regard. Learned civil Court granted an injunction in his favour until further orders. In violation of this order, the private respondents are still trying to forcibly take possession of the land in question. In spite of intimating the police authorities, no adequate steps have been taken by them in this regard.

Learned counsel appearing for the private respondents submits as follows. The private respondents have been possessing the property since before the title suit was instituted. They are in possession of substantial portion of the suit land in question.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. The Claims and counter claims in respect of such land are being made by the petitioner and the private respondents. The alleged portion of land is found as Government land Khatian No. 1 and the said part of the plot is a vested land according to Government records.

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

This is purely a civil dispute in respect of which a title suit has already been filed. The same is pending and purportedly there exists an order of injunction in favour of the petitioner.

So far as the allegations of wrong doings by the private respondents are concerned in allegedly trying to grab the property, the petitioner shall be at liberty to file appropriate application before the learned jurisdictional Court and the Court will act in the event a cognizable offence is made out.

Since the matter is pending before the competent civil Court, no further order need be passed in this regard.

Accordingly, the writ petition is disposed of without any order as to costs.

However, the police authorities shall maintain vigil at the locale and see to it that no order of competent Court is violated by any more.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Jay Sengupta, J.)