

WPA 8562 of 2023

M/s. Ashima Engineering

-vs-

State of West Bengal & ors.

Mr. Rabindranath Mahato

Mr. Aritra Shankar Ray

....for the petitioner

Mr. Gokul Chakraborty

...for the respondent nos. 4 to 7

Mr. Pinaki Ranjan Mitra

...for the respondent nos. 5 to 9

Mr. Tarak Karan

...for the State

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities not to prevent the petitioner from constructing a building over 03 cottah 03 chittaks 20 sq. ft. of land in RS Plot No. 657 under the Mouza-Santoshpur, JL No. 22, Khatian No. 1001, PS – Survey Park, South 24-Parganas being premises no. 1A, Lake East 6th Road, Kolkata- 700075.

Learned counsel appearing on behalf of the petitioner submits as follows. As would be evident from the Schedule appended to the Sale Deed by which the petitioner purchased the property, the property in question is Dag No. 657. This is completely different from Dag No. 589 which is the subject matter of a civil suit. By taking advantage of pendency of such civil suit, the private respondents along with local police authorities are preventing the petitioner from constructing a building on its land. The petitioner is

not even a party to the said civil suit nor his land is the subject matter of the said civil suit. In fact, the private respondents tried to add the present petitioner in the civil suit. But, the prayer was turned down. It is pertinent to mention that construction work of the building is complete. Only painting and some drainage work is left.

Learned counsel appearing on behalf of the respondent nos. 4 to 7 submits as follows. Although the plot number used in the Schedule to the Sale Deed and the Scheduled Title Suit are apparently different, actually these are the same. One is R.S Dag No. 657 which corresponds to C.S Dag No. 589. The refusal to add the petitioner in the civil suit has already been challenged and the same is pending adjudication. In fact, there is a direction passed by the learned Appellate Court that the Officer in Charge of the local police station shall comply with the injunction order. The injunction order passed in February 2022.

Learned counsel appearing on behalf of the respondent nos. 8 and 9 adopts the submissions made on behalf of the other private respondents and submits that there is no merit in the writ petition.

Learned counsel appearing on behalf of the State relies on the report and submits that it is a case whether the CS plot would actually correspond to the RS plot mentioned.

At this stage, learned counsel for the petitioner submits that the injunction granted in the Miscellaneous Appeal was in February 2022 while the petitioner had

purchased the property in 2020.

From the document appended at page 8 of the opposition filed by the respondent nos. 4 to 6, it appears that the CS Plot No. 589 in question could actually correspond to RS Plot No. 657. If that be so, then the injunction passed in respect of the civil suit would cover the plot in question.

However, there are no admitted facts present before this Court so as to proceed to pass an order on such writ petition.

It is also admitted by the petitioner that the construction work for the said building is practically over. Only some other work is left.

Therefore, if any of the parties wanted any relief in respect of the said property, the same has to be done before a Civil Court.

As such, no further order need be passed in this matter.

However, let the police authorities keep a sharp vigil at the locale, ensure that no breach of peace takes place and see to it that no order of a Civil Court is violated.

With these observations, the writ petition is disposed of.

Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)

