

82 09.08.2023
NB Ct. 14

WPA 8707 of 2023

Juthika Mondal
Vs.
The State of West Bengal & Ors.

Mr. Raju Mondal.
...for the petitioner.

Mr. Pantu Deb Roy Id. AGP,
Mr. Subrata Guha Biswas.
....for the State.

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to protect the lives and properties of the petitioner and her family members in terms of the order passed by the learned Civil Court.

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

It appears that one of the private respondents could not be served as door was locked.

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

Copy of the order dated 27.04.2023 passed by the Civil Court as filed on behalf of the petitioner is also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the owner of the landed property in question consisting of about 08 decimals of land in LR Plot No.3989 under Thanarpara Police Station under Mouza-11 No. Pipulkhola, LR Khatian No.1777/2. The petitioner became the owner of the property in question by a gift deed executed in 2020. The private respondents do not have any

right, title or interest in the said property and are rank outsiders. Yet, they are disturbing the peaceful possession of the petitioner and preventing her from fully utilising the said property. This prompted the petitioner to approach the learned Civil Court with a Title Suit No.154 of 20203. On 29.03.2023, the learned Civil Court (Junior Division), Tehatta, Nadia passed an order, thereby granting an ex parte ad interim temporary injunction in favour of the petitioner and restraining the defendants from entering the said property and causing disturbance to the peaceful possession of the petitioner. This interim order was subsequently extended. On 27.04.2023 upon an application filed by the petitioner under Section 151 of the Civil Procedure Code, learned Civil Court directed the Officer-in-Charge, Thanarpara Police Station to ensure that Order No.2 dated 29.03.2023 of ad interim temporary injunction was not violated by the defendants and to further assist the plaintiffs. In spite of this, the police have not rendered adequate help and the private respondents have continued to violate the order passed by the Civil Court.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. On the complaint filed by the petitioner, a proceeding has been initiated under Section 107 of the Code. The police authorities are keeping a strict vigil in the locality.

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

The petitioner's case is that the private respondents although rank outsiders are creating disturbances to the peaceful possession of the landed property of the petitioner. After granting an ad interim order of injunction, the learned Civil Court also directed the police authorities to ensure that the said order was not violated. Yet, the police have not taken adequate steps.

However, from the report it appears that the police have at least initiated a proceeding under Section 107 of the Code.

The respondent police authorities shall keep a sharp vigil at the locale and ensure that no breach of peace takes place and no order passed by a competent Civil Court is violated.

In the event, the petitioner faces such violation, she would intimate the Officer-in-Charge of the local police station who would, in turn, take adequate steps to prevent violation of the said order.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)