

138 31.07.2023  
NB Ct. 14

**WPA 9394 of 2023**

Tohikul Islam & Anr.  
Vs.  
The State of West Bengal & Ors.

Mr. Srikanta Datta.  
...for the petitioners.

Mr. Santanu Kumar Mitra,  
Mr. Amartya Pal.  
....for the State.

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities for police protection so that the petitioner can enjoy and peaceful possession of the property, especially in view of the disturbances created by the private respondents.

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

It appears that the private respondents refused to accept service of notice, which amounts to good service. The private respondents are not represented.

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

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioners purchased the property in question and took possession of the same. However, the private respondent nos.6 to 10 who are local hooligans and in no way connected with the property in question resisted him and thereafter created disturbances. Several complaints were made before the police, but they did not take sufficient steps.

An application was filed under Section 144 of the Code and an order of status quo was granted in favour of the present petitioner. In spite of this, the private respondents are continuously harassing the petitioner and are even preventing him from fencing his property. The petitioner has already filed a proceeding under Section 145 of the Code.

Learned senior counsel appearing on behalf of the State submits as follows. After getting a complaint, the police have already taken steps. A GD Entry was lodged and a proceeding was initiated under Section 107 of the Code of Criminal Procedure. A sharp vigil is being kept by the police at the locale.

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.

It appears that there is no existing civil dispute. However, due to the alleged disturbances created by the private respondents, the petitioners have filed a proceeding under Section 145 of the Code, which is still pending.

The State have also taken steps on the complaint of the petitioners and have initiated a proceeding under Section 107 of the Code.

Therefore, there is no need to pass any further order in this regard.

However, the respondent authorities shall keep a sharp vigil at the locale and ensure that no breach of peace takes place and that no order of any Court violated.

If the petitioners want to fence their property, they shall be at liberty to make representation before the police authorities for police help which shall be considered in accordance with law.

With these observations, the writ petition is disposed of without costs.

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

**(Jay Sengupta, J.)**