

August 28, 2023
AD 406
Court No.14
SG

WPA 10316 of 2023

Shyamal Kumar Ghosh and others
vs.
The State of West Bengal and others

Mr. Debojyoti Basu
Mr. Tirupati Mukherjee
... for the petitioners

Mr. Tarak Karan
... for the State

Mr. Jahadar Alam
... for the respondent No.6

This is an application under Article 226 of the Constitution of India praying for direction upon the police authorities to remove the mobile tower and any other equipment standing on the petitioners' land measuring about 1600 sq. ft. at CS and RS Dag No.230, LR Dag No.331, LR Khatian No.98/1, JL No.12, Touzi No.3927 in Mouza Uttarpara, PS Uttarpara, District Hooghly.

Affidavit of service filed in court is taken on record.

Learned advocate for the petitioners submits that the petitioners had leased out their land to the private respondent to set up a mobile tower. The agreement came to an end on 21st January, 2021. In spite of this, the private respondent kept the mobile tower at that place along with its equipments. This deprives the petitioners from enjoying the land gainfully by other means. The petitioners requested the respondent authorities to remove the structure, but they refused to do so. This was

brought to the notice of the police authorities, but no steps were taken. In one of the communications, the private respondent had admitted that it would be in a position to remove the articles but the petitioners did not cooperate.

Learned advocate for the private respondent submits that even before the agreement could come to an end, due to the disputes between the family members of the petitioners, the mobile tower could not be operated, resulting in immense loss for the company. At this stage it is not possible for the respondent authorities to remove the mobile tower or its equipment from the land of the petitioners. However, if the petitioners allow another term, an agreement can be arrived at. Besides, there is an arbitration clause.

Learned advocate for the State submits that this is purely a civil dispute between the private parties. The police can hardly interfere in this matter.

I have heard the submissions of the parties and have perused the writ petition.

It is strange that even after an admitted expiry of the agreement, the private respondent refused to remove the mobile tower and other equipment from the petitioners' land. If they admit to do so, they shall obviously be responsible for all costs and consequences.

However, this is hardly a matter which can be dealt with by this Court sitting in writ jurisdiction and hearing police inaction matters.

The petitioners shall be at liberty to take appropriate steps in this regard before the civil court or an appropriate forum.

With the aforesaid observations, the writ petition is disposed of.

As affidavits were not called for, the allegations made are deemed not to have been admitted.

Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

[Jay Sengupta, J.]