

16.05.2023.
Court No.13
Item No. 28
ap

W.P.A. No. 10381 of 2023
Taltala Maa Lakshmi Sporting Club
Versus
The State of West Bengal & Ors.

Mr. Tanmoy Mukherjee,
Mr. Sounak Bhattacharya,
Mr. Souvik Das,
Mr. Rudranil Das,
Mr. Sounak Mondal.

...For the petitioner.

Mr. Amal Kumar Sen,
Ms. Ashima Das (Sil).

...For the State.

Ms. Pampa Dey (Dhabal),
Ms. Bansari Mondal.

...For the respondent nos.4 to 9.

1. Affidavit-of-service filed in Court today be taken on record.
2. The petitioner claims to be in possession of a playground and land appurtenant thereto. The private respondents on the contrary claim possession of the land in question.
3. It appears from the records that there was a civil suit being Title Suit No. 237 of 2019 pending before the learned Civil Judge (Senior Division) 1st Court, Baruipur, South 24 Parganas filed by the private respondents against a third party, which was dismissed for default. There was an injunction order in the suit prior to dismissal. Both the writ petitioner and the private respondents claim ownership, entitlement and possession.

4. The police went to the property in question by the order of the learned Executive Magistrate passed under Section 144 of the Code of Criminal Procedure.
5. The petitioner claimed that it has been restrained from leveling the grass on the playground.
6. This Court is of the view that neither the police nor the Writ Court has to decide who is in actual possession of the property.
7. The Bakultala Police Station shall ensure that there is absolutely no breach of peace in the area.
8. The petitioner and the private respondents may establish title, possession and other entitlements in respect of the property before an appropriate civil forum.
9. With the aforesaid directions, the instant writ petition shall stand disposed of.
10. There will be no order as to costs.
11. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)