

04 10.08.2023
RP Ct. No. 01
AN

MAT 776 of 2023
with
IA No. CAN 1 of 2023

Abdur Rouf
Vs.
State of West Bengal & Ors.

Mr. Kajal Mukherjee
Mr. Partha Chakraborty
Mr. Bikash Chakraborty
Ms. Sudipa Sengupta

... For the Appellant

Mr. Ashim Kr. Ganguly
Sk. Md. Masud

... For the State

1. This intra-court appeal is directed against the order dated 05.04.2023 passed in WPA 5650 of 2023. One of the prayers sought for in the said writ petition is to restrain the private respondents from interfering with the appellant's possession of the immovable property in which according to the appellant, there are trees, which have been illegally cut down by the private respondent.

2. The learned writ court held that the dispute is purely civil in nature and also dismissed the writ petition with imposing cost of Rs. 7,500/-. So far as the prayers sought for in the writ petition by the writ petitioner against the private respondents are concerned, such relief cannot be granted. However, it is the submission of the learned counsel for the appellant that the private respondents have committed a criminal offence. If that be so, the appellant should approach the Police Authorities. Learned counsel

would submit that inspite of a complaint being lodged before the 5th respondent, no action had been taken on the said complaint.

3. Learned counsel for the State has filed a report stating that action has been initiated and has been acting in accordance with law and in this regard, a report has been filed by the Inspector-in-Charge, Deganga Police Station dated 23.07.2023. The operative portion of the order reads as follows:

“In course of enquiry I have searched available PS records and it came to learn that petitioner Abdul Rouf S/O Lt. Mohammad Ali of Vill+PO-Gobardhanpur, PS-Deganga, Dist.-North 24 Parganas lodged a general diary at Deganga PS vide Deganga PS GDE No. 1743/23 Dt. 30.01.2023 against the above noted alleged persons and also over the same issue. Then, as per endorsement of me ASI Banamali Das of Deganga PS sent a prayer before Id. Additional Chief Judicial Magistrate, Barasat to pass necessary order to enquire into the matter and also to submit prosecution U/S 427/506 IPC but the order is not received yet.

Petitioner also filed a M.P. Case vide No. 529 of 2023 and as per endorsement of me ASI Banamali Das enquired into the matter. During enquiry ASI Banamali Das had been to the spot and enquired the matter locally. He also submitted prosecution U/S 107 Cr.P.C. vide Deganga PS NCR No. 94/23 Dt. 01.02.2023 against i) Khabir Ali S/O Lt. Mohammad Ali ii) Mohammad Islam Ali S/O Lt. Hatem Ali iii) Rouf Ali S/O Elahi Mondal iv) Safikul Khan v) Sahabuddin Khan @ Santu both S/O Lt. Noor Ali Khan to maintain the peace and tranquility of that area.”

4. In the light of the above, it cannot be stated

that there has been inaction on the part of the Police Authorities. In any event, the appellant has got any fresh grievance, it will be well open to the appellant to approach the Police Authorities by way of a fresh complaint. Considering the facts and circumstances of the case, the cost of Rs. 7,500/- imposed by the learned Single Judge is deleted.

5. In the result, both the appeal and the application stand **disposed of**.

(T. S. Sivagnanam)
Chief Justice

(Hiranmay Bhattacharyya, J.)