

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

Present:

The Hon'ble Justice Jay Sengupta

WPA 11724 of 2023

Bharati Biswas & anr.

-vs-

State of West Bengal & ors.

For the Petitioners

Ms. Sucharita Biswas
Mr. Debapriya Gupta

For respondent nos.
5 & 6

Mr. Abhimanyu Bannerjee
Ms. Roshni Kalam

For the State

Mr. Amal Kr. Sen, Ld. AGP
Mr. Lal Mohan Basu

Heard on : 31.07.2023

Judgment on : 31.07.2023

Jay Sengupta, J.:

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities, especially the respondent no.4 to give necessary police protection at

the premises in question and to take steps on the basis of the complaint lodged by the petitioners.

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

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

Copies of certain documents pertaining to civil disputes between the adverse parties as filed on behalf of the private respondents are also taken on record.

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioner no.1 is an octogenarian lady and the petitioner no.2 is her unmarried daughter. They are purportedly in possession of a part of the property. Without offering the petitioners to purchase the particular part of the property in question, the son of the petitioner no.1 sold away the said part of the property allegedly to the private respondents. The private respondents are not residing there. They have employed such anti-social elements who are residing in the property and creating trouble so that they can grab the part of the property which is in a possession of the octogenarian lady. In spite of complaints made before the police authorities, no adequate steps have been taken. Even the main gate of the building which was damaged by the private respondents could not be repaired due to their opposition. Necessary police help may be given for this.

Learned counsel appearing on behalf of the private respondents relies on the documents filed and submits as follows.

There is a civil suit pending between the parties and the private respondents have already been granted an order ad interim injunction in respect of the first floor of the property which they had purchased after the same had been gifted to the son of the petitioner no.1. Reliance is also placed on an order passed under Section 144 of the Code in their favour.

At this stage, it is further submitted on behalf of the petitioners that the purported injunction order passed in the civil suit has been vacated.

Learned AGP representing the State relies on the report and submits as follows. Two civil suits are pending between the private parties over the dispute. On the previous allegations made by the petitioners, a specific FIR being Lake Town Police Station Case Number 181/22 dated 27.08.2022 under Sections 448, 427, 188 and 34 of the Indian Penal Code was started. The police are keeping a watch in the locality.

I have heard the submissions of the learned counsels for the parties and have perused the writ petition and the documents filed in course of the proceeding.

It appears that a civil suit is pending between the adverse parties.

There is also an order passed under Section 144 (2) of the Code of Criminal Procedure.

So far as the question of police inaction is concerned, the police have already taken steps on the previous complaint lodged by the petitioner and drawn up a specific FIR. The same is being investigated into.

In case there is a further disturbance or if the police deems fit and proper, necessary action may be taken by the police authorities including starting a proceeding under Section 107 of the Code.

No further order need be passed in this case.

However, the police shall keep a strict vigil at the locale and ensure that no breach of peace takes place. The police shall also render necessary protection so that the main gate of the building can be repaired upon being approached by the petitioners.

With these observations, the writ petition is disposed of.

Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

Since affidavits were not called for, allegations are deemed not to have been admitted.

(Jay Sengupta, J.)