

13.07.2023
sayandeep
Sl. No. 12
Ct. No. 14

WPA 14933 of 2023

Ajit Kr. Samanta
-versus-
The State of West Bengal & Ors.

Sk. Jayed Hossain
..... for the petitioner

Mr. Suddhadev Adak
Ms. Arpita Mondal
.....for the State

Mr. Bibaswan Bhattacharya
Mr. Bindal Paul
...for the private respondent Nos. 5 -10

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities, especially the respondent Nos. 2 to 4 to protect the life and property of the petitioner in terms of the order passed by the learned Civil Court and to secure peaceful cultivation of land by the petitioner.

Learned counsel for the petitioner submits as follows. The petitioner is the owner of the land in question. The private respondents, after a point, started to claim a right of way through the petitioner's land. The report of the BL&LRO would show that there was no such right of way available to anyone. The private respondents filed an application under Sections 144 and 147 of the Code of Criminal Procedure

and the same was dismissed for default. They also filed a civil suit in this regard. But, the same was dismissed on contest. Therefore, the respondent authorities may be directed to see to it that the civil Court's order is not violated.

Learned counsel appearing for the private respondents submits as follows. The application under Section 147 was only dismissed for default. The same has now been challenged before this Court. An appeal has also been preferred against the dismissal of the petitioner's title suit.

Learned counsel appearing for the State submits that the State would be in a position to carry out a civil Court's order, if necessary.

I have heard the learned counsels for the parties and have perused the writ petition.

It appears from the report of the BL&LRO that there was no such right of way available to anyone through the petitioner's land. However, this is a matter to be finally adjudicated before the appropriate Court of law.

It is also true that as of now the private respondent's application under Section 147 remain dismissed for default. Their civil suit was dismissed on contest although an appeal has reportedly being filed.

However, there is no indication of any stay being granted.

Therefore, as of now one has to go by the order passed by the learned Civil Court.

If necessary the police authorities shall render adequate help in terms of the order passed by the learned Civil Court till a decision is taken by the appellate forum, even as an interim measure.

The police authorities should also keep a strict vigil at the locale and ensure that no untoward incident takes place and that there is no violation of any Court's order.

With these observations, the writ petition is disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Jay Sengupta, J.)