

21.08.2023
Item No. 25
BR

WPA 14946 of 2023
Anjana Ghosh & anr.
-VS
The State of West Bengal & Ors.

Mr. Jayanta Kumar Mukhopadhyay
.... For the petitioner

Mr. Rajarshi Basu,
Mr. S.T. Mina
..... for the State

This is an application under Article 226 of the Consitution of India praying for direction upon the private respondent nos. 6 to 10 to initiate a criminal proceedings on the basis of petitioner's complaint, to render adequate protection to the petitioners and his family members and to enable the petitioners to encircle the Bokul tree in question by constructing a boundary wall.

Affidavit of service filed in Court today is taken on record.

It appears that all the respondents could not be served with notice.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the owner of the land in question on which a Bokul tree stands. The private respondents and some of the locals have claimed that the Bokul tree was standing on a common road and was obstructing all. So there was a need to cut the tree. To protect the tree, the petitioners filed a writ petition before this Court. By an order dated 1st May, 2023 passed by a co-ordinate Bench of this Court in WPA No. 21369 of 2017, the Divisional Forest Officer (Forest), Howrah was directed to treat the writ petition as a representation and to dispose of the same in accordance with law and till then, the tree would remain there, neither to be damaged nor destroyed. In order to protect the tree further, the petitioner wants to encircle the same by putting up a small boundary wall. This is being prevented by the locals. The police authorities were approached, but in vain.

Learned counsel appearing for the State submits as follows. Whether the land in question where the Bokul tree is standing belongs to the

petitioners or not is a question that can be decided only by a Civil Court. So far as Bokul tree is concerned, there is already a direction passed by a co-ordinate Bench of this Court. Had the co-ordinate Bench thought it necessary, it could have directed putting up such a boundary wall.

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

By an order dated 1st August, 2023, this Court in WPA No. 21369 of 2017 passed the following directions:

“ The writ petition is disposed of with a direction upon the Divisional Forest Officer, Howrah Division to treat the writ petition as a representation and dispose of the same, in accordance with law.

While doing so, the petitioners, some of the representatives of the village, the respondent no. 7 and the concerned pradhan shall be heard. The issue shall be decided in accordance with law and necessary orders shall be passed and communicated to all parties.

Till the decision is arrived at, the tree as it remains today, shall neither be damaged nor destroyed.

Unless the lands are required for developmental activities like construction of roads, drainage system and /or for implementation of public projects, age old trees standing on such land, should not be felled indiscriminately. In the alternative, efforts should be made for plantation of more trees, if trees are felled during execution of projects.”

Therefore, certain directions have already been passed regarding protecting the said Bokul tree.

There is no question of further complicating the disputed issue by allowing the petitioners to build a boundary wall.

The State shall comply with the directions passed by this Court on 1st May, 2023 in WPA No. 21369 of 2017.

No further order need be passed.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order, if applied for, be given

to the learned advocate for the parties as expeditiously as possible.

(Jay Sengupta, J.)