

10 03.08.2023
NB Ct. 14

WPA 15293 of 2023

Samarendranath Pradhan @ Samrat Pradhan
Vs.
The State of West Bengal & Ors.

Mr. Pawan Kr. Gupta,
Mr. Syed Julfikar Ali,
Ms. Sofia Nesar,
Mr. Santau Sett.
...for the petitioner.

Mr. Jahar Dutta,
Mr. Sanatan Panja.
....for the State.

Mr. S. N. Mitra, (Sr. Adv.),
Mr. Nishant Kr. Sarof,
Ms. Ujjaini Chatterjee.
...for the private respondent.

This is an application under Article 226 of the Constitution of India praying for a direction upon the police authorities to take steps to remove tin fencing covering the entrance of the petitioner's house at Plot No.2, Mouza Ghuni J.L. No. 23, Touji No.178, R.S. No.232 comprised in R.S. & L.R. Dag No.3094, L.R. Khatian No.8603 measuring about 02 Cottah 10 Sq.ft. within New Town Police Station, North 24-Parganas.

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

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

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner purchased a property which lies within a bigger plot of land. The private respondents who

are the owners of some of the other lands forcibly put tin fences encircling the entire area including the petitioner's land. The petitioner's properties including the Sale Deed are lying in his property inside the fenced premises. Admittedly, the petitioner is having possession of the said plot of land as would be evident from the averments made by the private respondents in their application under Section 145(1) of the Code of Criminal Procedure. Yet, the police have not rendered any help for the petitioner to access his own property.

Learned senior counsel representing the private respondents submits as follows. A substantial portion of the plot of land in question has already been acquired by the State including the portion that the petitioner is claiming to have purchased. The private respondents are the prior purchasers of the land in question and they had purchased the land in 1988. They had put a tin shed to cover the entire area. They have already filed an application under Section 145 of the Code and a Court in seisin of the matter.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. After a complaint was made by the petitioner, the same is being looked into. A notice under Section 91 was given to the BL & LRO for obtaining necessary documents. The issue is substantially civil in nature. However, the police have already started a proceeding under Section 107 of the Code.

I have heard the submissions of the learned counsels appearing on behalf of the parties and have perused the writ petition and the report filed by the State.

It appears that the police have taken some action in respect of the complaint filed by the petitioner and a proceeding under Section 107 of the Code has already been initiated.

Otherwise, the dispute is substantially civil in nature.

There is a pending proceeding under Section 145 of the Code initiated by the private respondents. The order passed in the same is under challenge. Let the same be decided expeditiously and in accordance with law.

No further order need be passed in this case.

However, the police authorities shall keep a sharp vigil at the locale and ensure that no breach of peace or any violation of a Court's order takes place.

With these observations, the writ petition is disposed of.

Since affidavits were not called for, the allegations contained in the writ petition are deemed not to have been admitted.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)