

Item No.5

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 05.04.2023

DELIVERED ON: 05.04.2023

**CORAM:
THE HON'BLE ACTING CHIEF JUSTICE T. S. SIVAGNANAM
AND
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA**

**FMA 157 OF 2022
WITH
I.A. NO.CAN 1 OF 2022**

**Rabindranath Kundu.
Vs.
The State of West Bengal & Ors.**

Appearance:-

Mr. Purnasis Bhuniya **for the appellant.**

**Mr. Ansar Mandal,
Ms. Srilekha Bhattacharya** ... **for the State.**

**Mr. Uttam Kr. Bhattacharyya,
Mr. Kaustav Mishra** ... **for the respondent nos.7 to 10.**

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, ACJ.)

1. Being dissatisfied with the order and direction dated 4th August, 2021 issued in the writ petition, the appellant/writ

petitioner has filed the present appeal. The petitioner sought for the prayer in the writ petition to issue a writ of mandamus to direct the officer-in-charge of Mohanpur Police Station to take steps based on the complaint made by the petitioner on 13th March, 2020 and 7th July, 2020 and to direct the said police to ensure that nobody threatens the petitioner so that he can peacefully enter into the village at Padima under Police Station - Mohanpur and carry on his daily functions.

2. The learned Single Bench had disposed of the writ petition by observing that if the petitioner lodges a complaint with the local police, no doubt, the local police station will take appropriate steps with regard thereto.

3. The petitioner would submit that the learned Writ Court ought to have issued a positive direction to the respondents / police to investigate into the matter based on his complaint. The petitioner alleges that he is not able to enter into the village. However, the learned Advocate appearing for the private respondents submits that the petitioner is daily entering into the village and he is using the hut, which he put up in the village.

4. These disputed questions of fact cannot be gone into in a writ petition. From the annexures to the supplementary

affidavit, we find that there are two representations dated 13th March, 2020 and 7th July, 2020 given by the petitioner to the Superintendent of Police, Paschim Medinipur and these representations are still pending consideration.

5. Therefore, we dispose of this appeal along with the connected application by directing the Superintendent of Police, Paschim Medinipur to take on his file such representations / complaints and forward the same to the appropriate police officer, to conduct a detailed investigation into the matter and if necessary, make a spot inspection of the area and thereafter proceed to take action in accordance with law.

6. This direction shall be complied with within a period of four weeks from the date of receipt of the server copy of this judgment and order.

7. There shall be no order as to costs.

8. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
Acting Chief Justice

I agree,

(HIRANMAY BHATTACHARYYA, J.)

NAREN/PALLAB (AR.C)