

D/L
Item No. 15
13.07.2023
KOLE

WPA 15420 of 2023

Hemanta Dasadhikari
-Vs.-
The State of West Bengal & Ors.

Mr. Shekar Shah,
Mr. A. Bhattacharyya,

...for the petitioner.

Mr. Tarak Karan,

...for the State.

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities, especially the police authorities to ensure that the respondent nos. 5 to 7 may not create any disturbance towards the peaceful life and livelihood of the petitioner.

Affidavit of service filed on behalf of the petitioner is taken on record. Despite service none appears on behalf of the private respondents though the State is represented.

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

Learned Counsel petitioner submits as follows. The petitioner was the owner of the property in question in which he was staying along with his eldest son and the other sons and their families. In due course, the petitioner gifted away the property to his sons. After this all the sons, except the eldest one, and their family members started to harass and intimidate the petitioner. They assaulted him and even slapped him. Complaints were made before the Police Station, but without any adequate step.

Learned Counsel appearing on behalf of the State relies on the report and submits as follows. The police have taken action on the complaints filed by the petitioner. Since no cognizable offence was made out, a proceeding was initiated under Section 107 of the Code.

I have learned Counsel for the parties and have perused the writ petition and the report filed by the State.

It is indeed an unfortunate situation where despite a residential property being gifted by a father, his sons have assaulted him even to the extent of slapping him. Technically a cognizable offence may not be made out and the police may be right in initiating a proceeding under Section 107 of the Code.

However, whenever the petitioner makes complaints of serious assault, the police authorities shall take appropriate steps in this regard.

Besides, it shall be open to the petitioner to take recourse to appropriate provisions of law available regarding recovery of property donated to own children on certain conditions.

Let the police keep a strict vigil at the place and ensure that no harm is done to the present petitioner.

With these observations, this writ petition stands disposed of.

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

(Jay Sengupta, J.)