

13.07.2023
SL-24
Ct.14
(S.R.)

WPA 15643 of 2023
Amitava Adak
v.
The State of West Bengal & Ors.

Mr. Biswajit Das
Mr. Himadri Barua ... for the petitioner.

Md. Iqbal Hussain
Mr. Kaushik Chandra Gupta
... for the respondent nos.4 & 5.

Mr. Wasim Ahmed
Md. Shehabuddin ... for the State.

This is an application under Article 226 of the Constitution of India praying for direction upon the respondent authorities to provide adequate protection to the petitioner's land and commanding the respondent nos.2 and 3 to take step against the respondent nos.4 and 5 for their illegal activities and interference with the possession of the land of the petitioner.

Affidavit of service filed by the petitioner be kept on record.

Report filed on behalf of the State is taken on record. Copies of orders passed in the civil suit and in a proceeding before the learned executive Magistrate as filed by the private respondents are also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the owner of the land in question. He had constructed boundary

wall for his land to protect it. But, the respondent nos.4 and 5 broke down the boundary wall. Several complaints were made to the appropriate authorities, but in vain. Thereafter, the petitioner approached the learned Magistrate under Section 144(2) of the Code.

Learned counsel appearing on behalf of the private respondents submits as follows. The private respondents had purchased the property adjacent to the petitioner's land from the petitioner himself. By way of easement, a passage was to be allowed so that construction work may be carried out at the said land. Yet, the petitioner illegally put up barriers there. The private respondents were constrained to move the Civil Court. Pursuant to an order passed by the Civil Court in this regard, the learned Executive Magistrate also modified the order passed in the proceeding under Section 144(2) of the Code.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. This is purely a civil dispute between the adverse parties. There is hardly anything that the police can do. However, the police are keeping a strict vigil at the locality so that no untoward incident takes place.

I have heard the learned advocates appearing for the respective parties and I have perused the writ petition, the report filed by the State and the orders filed before this Court.

It appears that certain orders have been passed both by the Civil Court as well as by the learned Executive Magistrate under Section 144(2) of the Code.

As such, there is no need for this Court to pass any further order.

However, the police authorities shall ensure that no breach of peace takes place at the locale and that no order of a competent court is violated.

With these observations, the writ petition is disposed of.

There shall, however, be no order as to costs.

Urgent Photostat certified copy of the order if applied for, be made over to the parties as expeditiously as possible.

(Jay Sengupta, J.)