

03-08-2023
Item No.14
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.15784 of 2023
Ramchandra Panda
-vs-
The State of West Bengal & Ors.

Mr. Amit Baran Dash
Ms. Ankana Sarkar ...for the petitioner

Ms. Anima Das Chakraborty ...for the State

Mr. Balaram Pandit
Mr. Anjan Dutta ...for the private respondents

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondents, especially the respondent no.5 to restrain the respondents no.6-9 from disturbing peaceful possession of the petitioner's raiyati land and for construction of a boundary wall for the same.

Affidavit of service filed in court be taken on record.

The State has filed a report which is also taken on record.

Learned counsel for the petitioner submits as follows. The petitioner is the land owner in question. However, the peaceful possession of the land has been disturbed by the private respondents who are the adjacent land owners. They are preventing the petitioner even from putting up a boundary wall. The petitioner filed an application under section 145 CrPC whereupon the inspector-in-charge of Egra police station was directed to assist the Block Land & Land Reforms Officer

to measure the land. On February 23, 2023, the court accepted the measurement of boundary fixation and declared that the petitioners were entitled to continue to remain in possession of the land until evicted in accordance with law and the court directed to forbid all disturbances of such possession until such eviction.

This prompted the petitioner to file another application under section 144 CrPC. By an order dated March 16, 2023, the learned Executive Magistrate directed the opposite parties therein to be restrained from disturbing the peaceful possession of the petitioner's land. In spite of that, the private respondents continued to violate the orders and disturb the peaceful possession of the petitioner's land, and in spite of seeking police help, no such assistance was rendered.

Learned counsel for the private respondents no.6-8 submits as follows. The allegations made by the petitioner are denied. There is a civil dispute between the parties pending in a civil court. In fact, the order passed under section 145 CrPC was stayed in a criminal revision filed by the private respondents. Even an order under section 144 CrPC was passed after the order passed under section 145(2) CrPC which has now been stayed.

Learned counsel for the State relying on a report submits that this is essentially a dispute of civil nature. However, after a complaint was made by the petitioner, proceeding was initiated under section 107 CrPC against the private respondents. The police are maintaining strict vigil at the locale.

I have heard learned counsels for the respective parties and have perused the writ petition and the report filed by the State.

It appears that a dispute exists between the adjoining land owners over putting up a boundary wall by the petitioner.

However, it further appears that the order obtained by the petitioner under section 145 CrPC has been stayed in revision. The order under section 144 CrPC is purely based on that earlier order passed under section 145 CrPC. The parties shall be at liberty to agitate their grievances before the revisional court.

The police, however, have taken steps on the complaint of the petitioner and a proceeding under section 107 was drawn up.

Therefore, there is no need to pass any further order in this regard.

However, the police authorities shall maintain vigil at the locale and ensure that no breach of peace takes place and no order passed by a civil court is violated.

With the above observations, WPA No.15784 of 2023 stands disposed of. No order as to costs.

Certified copy of this order, if applied for, shall be made available to the parties.

[Jay Sengupta, J]

