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Ct 14

WPA 16034 of 2023

Arindam Mitra
-vs-
State of West Bengal & ors.

Mr. Raja Biswas
Mr. Abhijit Sarkar
....for the petitioner
Mr. Rajarshi Basu
Mr. Ananda Dulal Sarkar
...for the State

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to conduct an inquiry in fair and impartial manner and take action against the respondent no.6 in accordance with law and for passing a restraining order on the private respondents from making further construction on the land.

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 is the promoter/builder who had entered into an agreement with the respondent nos. 7 and 8 to construct a house at the land in question. After some time, the private respondents created disturbances and stopped the petitioner from doing his work. The

petitioner was constrained to approach the police but in vain. On the contrary, the police personnel being the respondent no.6, attached to the local police station is conniving with the private respondent nos. 7 and 8 to pressurize and intimidate the present petitioner. The petitioner was granted an order under Section 144 (2) of the Code of Criminal Procedure thereby directing the opposite party members not to take up any kind of construction work over the scheduled property.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. The respondent authorities shall ensure that the respondent no.6 does not meddle into affairs of the petitioner and the private respondents, but the petitioner has to co-operate with the inquiry which is being done in this regard. It appears that there is a civil dispute between the private parties. However, the petitioner is keeping a sharp vigil at the locale so that no breach of peace takes place.

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

It prima facie appears that the learned Executive Magistrate exceeded its authority in directing the opposite party members not to take up any kind of construction work over the suit property while exercising powers under Section 144 (2) of the Code.

However, this shall not prevent any of the parties to

approach the learned Civil Court for an appropriate relief.

Since police have already started an inquiry into the alleged misconduct of the respondent no.6, no further order need be passed in this regard.

However, the police shall keep a strict vigil at the locale and ensure no breach of peace takes place.

With these observations, the writ petition is disposed of.

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

(Jay Sengupta, J.)