

21.08.2023
Srimanta
Sl. No. 29
Ct. No. 14

WPA/16644/2023

Ganapati Nath
-Vs.-
State of West Bengal & Ors.

Mr. Abhijit Sarkar,
Mr. Raja Biswas

...for the petitioner.

Ms. Ipsita Banerjee,
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 to take legal action against the respondent nos. 5 and 6 and to provide Police protection for construction of boundary wall.

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

Learned Counsel appearing on behalf of the petitioner submits as follows. The petitioner is the owner of the property in question while the private respondents are rank outsiders. Yet, they are disturbing the possession of the petitioner's property. The petitioner was constrained to file a civil suit for declaration. A decree was passed in his favour. The Private respondents were preventing the petitioner from put up the boundary wall to secure the property, the petitioner was constrained to move a writ petition before this Court. By an order dated 18.01.2023 passed in WPA/7942/2022, the petitioner was granted liberty to put the decree into further execution or take civil measures for constructing boundary wall. The Officer-in-Charge of Dhubulia

Police Station, Nadia was directed to ensure that no breach of peace takes place in the area. The private respondents are again disturbing the petitioner. The Police are not taking steps.

Learned Counsel appearing on behalf of the State relies on the report and submits as follows. After receiving the complaint of the petitioner, the Police Authority have already taken steps. A proceeding was initiated under Section 107 read with Section 116 of the Code of Criminal Procedure. It may also be germane to mention that the private respondents have also filed a civil suit against the petitioner and several others in 2015 and the same is still pending.

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 appears that a civil dispute is still pending between the adverse parties.

However, the petitioner was granted a decree in the civil suit filed by him.

For the further disturbances already caused, a complaint was filed by the petitioner and the Police Authorities acted by initiating a proceeding under Section 107 of the Code.

Therefore, no further order need be passed in this regard.

However, the Police Authorities shall keep a sharp vigil of the locale and ensure that no breach of peace takes place and no order of Civil Court is violated.

If there is further disturbance, the petitioner shall be at liberty to pray for necessary help.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Jay Sengupta, J.)