

25 03.08.2023
NB Ct. 14

WPA 16909 of 2023

A. H. M. Rahamatullah
Vs.
The State of West Bengal & Ors.

Md. Yousuf Ali
...for the petitioner.

Mr. Somnath Ganguly Id. AGP,
Ms. Priyamvada Singh.
....for the State.

Mr. Sarbananda Sanyal.
...for the respondent no.8.

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to act in accordance with law and investigate into the matter on the complaint of the petitioner.

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.

Copy of the Order dated 18.03.2019 passed by the learned Civil Judge, Junior Division, 1st Court, Berhampore, Murshidabad in OS-89 of 2018, as filed in Court by the respondent no.8, is 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 never conveyed the property to the private respondent. However, later on it was learnt that the private respondent had claimed to have purchased the property and

thereafter gifted the same to a non-existing Madrasah. The petitioner is still in possession of the property in question.

Learned counsel appearing on behalf of the respondent nos.8 relies on the copy of the order and submits as follows. The allegations levelled by the petitioner are denied. As would be evident from the Order dated 18.03.2019 passed by the learned Civil Court, an amicable settlement was arrived at between the private parties and accordingly, the suit was disposed of. It is surprising that the petitioner is again taking up the old issue of a transfer of land of the year 2011 in the year 2023.

Learned counsel appearing on behalf of the State relies on the report and submits that dispute between the private parties is essentially civil in nature. The police never received any complaint from the petitioner earlier, except for a general representation at a much belated date.

I have heard the submissions of the learned counsels appearing on behalf of the parties and have perused the writ petition, the report filed by the State and the documents filed by the respondent no.8.

It appears that a civil dispute exists between the private parties.

It also appears that there was an order passed regarding a settlement in the year 2018.

It is surprising that for a conveyance of property that purportedly took place in 2011, the petitioner has made the first representation for lodging of an FIR in 2022. If the petitioner was aggrieved, he could have approached the local police

station, then the Superintendent of Police and failing which the learned jurisdictional Magistrate for lodging of an FIR. The course is still open subject to the question of delay.

In view of the above, I do not find any merit in this application. Accordingly, the same is dismissed.

However, there shall be no order as to costs.

Since affidavits were not called for, the allegations contained in the writ petition are deemed not to have been admitted.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)