

26 03.08.2023
NB Ct. 14

WPA 16920 of 2023

Ram Narayan Nanda & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Tanmoy Mukherjee,
Mr. K. R. Ahmed,
Mr. Rudranil Das.
...for the petitioners.

Mr. Ansar Mondal,
Ms. Kalpita Paul.
....for the State.

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities, particularly the Sub-inspector of Contai Police Station, not to illegally interfere with the legal construction work being carried on by the present petitioners as per permission obtained from the Contai Municipality and investigate into the matter.

Affidavit of service filed on behalf of the petitioners is taken on record.

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

Copies of Orders passed in two proceedings under Section 144(2) of the Code filed by the adverse parties, as filed in Court, are taken on record.

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioner is the owner of the land in question. He obtained a sanctioned plan from the municipality for constructing the second floor over and above the ground

floor. However, the adjacent land owners being respondent nos.6 to 8 have been objecting to the same and they had also been threatened and intimidating the petitioners. At their behest, the respondent no.4 and the Officer of the Contai Police Station had come to the site and threatened the petitioners not to continue the construction work. This is absolutely illegal, especially in view of the sanctioned plan granted by the municipality. An order was granted in favour of the petitioner in an application under Section 144 of the Code.

Learned counsel appearing on behalf of the private respondent nos.6 to 8 submits as follows. Pursuant to an application under Section 144(2) of the Code, an order was passed in favour of the private respondents directing the Inspector-in-Charge of the local Police Station, the Chairman of the concerned municipality not to allow any illegal construction work at the premises. The main grievance of the private respondents is that petitioners are leaving no space between the plots by others while undertaking such construction. This is absolutely illegal and the police officer had rightly intervened in pursuant to the Order passed of the proceeding under Section 144 of the Code.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. Reference is made to the order passed in favour of the private respondents in the application under Section 144 of the Code. It is purely a civil dispute between the private parties.

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 copies of orders of proceedings under Section 144 of the Code.

It appears that two orders were granted under Section 144(2) of the Code, one in favour of the petitioners' and the other in favour of the private respondents. However, the order granted in favour of the private respondents is more specific in directing the Inspector-in-Charge of the local Police Station and the Chairman of the municipality not to allow any illegal construction at the site.

It shall be open to either of the parties to challenge such orders in the revision.

Otherwise, the dispute is primarily of civil nature and police intervention is hardly an option unless directed by a Court.

In view of the above, there is no need to pass any further order in this regard.

However, the police shall keep a sharp vigil and ensure that no breach of peace takes place.

With these observations, the writ petition is disposed of.

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.)

