

27.07.2023
Item No. 41
BR

WPA 16997 of 2023

Md. Abdul Mazed
-VS
State of West Bengal & Ors.

Ms. Pritha Bhaumik,

.... For the petitioner

Mr. Rajarshi Basu ,
Mr. Sanjib Dutta
... for the State

This is an application under Article 226 of the Constitution of India praying for direction, especially upon the respondent nos.4 to 7, to act in accordance with the order dated 9th March, 2023 passed by the learned Civil Judge (Junior Division), 1st Court, Barasat, North 24-Parganas in Title Suit No. 230 of 2023 and a direction upon them not to disturb the peace.

Affidavit of service filed by the petitioner is taken on record. Despite service, no one appears on behalf of the private respondents.

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

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner purchased the property in question. However, the respondent nos. 4 to 7 had been disturbing his possession. The petitioner was constrained to file a Title Suit being Title Suit No. 230 of 2023 before the learned Civil Judge (Junior Division), 1st Court, Barasat, North 24-Parganas. On 9.3.2023 an ad interim injunction order was passed. Still the disturbance continued. An intimation was sent to the local Police Station, but no steps were taken.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. It is for the petitioner to seek appropriate order before the learned Civil Court for compliance of the injunction order. In spite of that after a complaint was lodged by the present petitioner, the police took necessary steps and initiated a proceeding under Section 107 of the Code.

I have heard Learned Counsels for the parties and have perused the writ petition.

It appears that a civil suit is pending between the adverse parties and an ad interim order of injunction has already been passed. Therefore, it shall be open to the petitioner to seek appropriate relief before the learned civil court in connection with the same.

It further appears that police have already taken some steps on the complaint made by the petitioner and a proceeding under Section 107 of the Code was initiated.

Therefore, no further order need be passed.

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

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible.

(Jay Sengupta, J.)

