

Ct. 14
Item No.20
10.08.2023
(Suvendu)

WPA 17538 of 2023

**Hemanta Kumar Sana
Vs.
The State of West Bengal & Ors.**

Mr. Dhananjay Banerjee
Mr. Arup Kumar Bowmik
.....for the petitioner

Mr. Amitesh Banerjee
Mr. Suddhadev Adak
.....for the State

Mr. Tanmay Chowdhury
Mr. Ritoprita Singh
.....for the respondent no.4

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to take steps against the private respondents for the illegal construction which they are doing by encroaching upon the petitioner's 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 for the petitioner submits as follows. The petitioner is one of the owners of the land contained in Mouza –Rajbalhat,

J.L.No. 6, Khatian No. 4928, Dag No. 3870, measuring about 7 decimal of land under Police Station –Jangipara, District –Hooghly. The respondent does not have any right to unilaterally make a construction on the land in question by encroaching upon such land. The petitioner filed an application under Section 144 of the Code and the learned Executive Magistrate directed the Officer-in-Charge of Jangipara Police Station to restrain the opposite parties if their action was found illegal. The matter was also brought to the notice of local Police Station, but no action was taken.

Learned counsel appearing for the private respondent submits as follows. The private respondent is also a co-sharer in the said property. In fact, the private respondent has filed a revision and obtained a stay on the order passed under Section 144(2) of the Code.

Learned Senior Standing Counsel representing the State relies on the report and submits as follows. Police have already initiated proceeding under Section 107 of the Code on the complaint of the petitioner. Police are keeping a strict vigil in the locality.

I have heard the learned counsels appearing on behalf of the parties and have perused the writ petition and the report filed on behalf of the State.

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

An order was passed under Section 144(2) of the Code which was challenged in revision.

Hence, either of the parties shall be at liberty to move the Civil Court for an appropriate relief.

No further orders need be passed in the writ petition and the same is disposed of without any costs.

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

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

(Jay Sengupta, J.)