

26 14.08.2023
NB Ct. 14

WPA 17883 of 2023

Saiyed Idrish Ali
Vs.
The State of West Bengal & Ors.

Mr. Siddhartha Sarkar
...for the petitioner.

Mr. Wasim Ahmed,
Sk. Md. Masud.
.... for the State.

Mr. R. Mahato,
Mr. A. S. Ray.
...for the respondent nos.4&5.

This is an application under Article 226 of the Constitution of India praying police help to enforce an order dated 23.08.2022 passed by the learned Civil Judge (Junior Division) at Kharagpur, Paschim Medinipur in Title Suit No.139 of 2022 and to provide police protection to the life and liberty of the petitioner.

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

Report filed by the State is also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is having a permissive possession of the property in question of which the private respondents are the owners. Claiming adverse possession, the petitioner filed a civil suit being T.S. Case No.139 of 2022, which is pending before the learned Civil Judge (Junior Division), Kharagpur. By an order dated 23.08.2022, the learned Civil Court directed the petitioner not to dispossess the

plaintiff from the suit property and also to maintain status quo in respect of the nature, character and possession of the suit property till the next date. This was brought to the notice of the police authorities, but no steps were taken.

Learned counsel appearing on behalf of the respondent nos.4 and 5 submits as follows. First, this is a purely a civil dispute and relief, if any, lies before the Civil Court. Secondly, the plot nos.1215 in respect of which the petitioner is making certain claims does not belong to the private respondents. The private respondents are the owners of another plot of land being plot no.1212.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. This is purely a civil dispute concerning land and relief would lie before the Civil Court. In spite of this, after a complaint was registered, the local police authorities initiated a proceeding under Section 107 of the Code of Criminal Procedure.

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

It appears that there is a civil dispute between the petitioner and the owners of the property in question. A civil suit is pending. But, if the petitioner wants police help to execute such order, he would have to make a prayer before the Civil Court.

After a complaint was made before the police authorities, they have already taken action and initiate a proceeding under Section 107 of the Code.

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

However, the police authorities shall maintain a sharp vigil at the locale and ensure that no breach of peace takes place and no order of Civil Court is violated.

With these observations, the writ petition is disposed of without any costs.

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

(Jay Sengupta, J.)