

42 07.08.2023
NB Ct. 14

WPA 17947 of 2023

Mantaj Ali Molla @ Montaj Ali Molla
Vs.
The State of West Bengal & Ors.

Mr. Souvik Das.
...for the petitioner.

Mr. Sk. Md. Galib,
Mr. Tamal Taru Panda.
....for the State.

Mr. Subhas Chandra Atha,
Ms. Payel Paramanik.
...for the respondent nos.6&7.

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent to provide police protection to the petitioner so that the property being land measuring 15.50 decimals situated at Mouza-Mohiary, J.L. No.28 comprised within Dag No.2698 (old), new L.R. Dag No.3068, Khatian No.1053 (old), new L.R. Domjur, District-Howrah can be property walled and the co-owners can continue their ingress and egress in the said property.

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 on behalf of the petitioner submits as follows. The petitioner purchased the property in 2021. Since then, the private respondents had been harassing and intimidating the petitioner. They are disturbing the petitioner from enjoying the property peacefully. This prompted the

petitioner to file a civil suit in the year 2023 and an ad-interim injunction was granted restraining the opposite parties from disturbing the peaceful possession of the plaintiffs without due process of law. The private respondents also tried to get an order under Section 144 of the Code, but failed. The private respondents had earlier filed a civil suit in respect of the property where no injunction was granted.

Learned counsel appearing on behalf of the private respondents submits as follows. The private respondents are challenging the ownership of the land in respect of the vendors who purportedly sold the land to the present petitioner. A civil suit is pending on the same. In fact, the proceeding under Section 144 of the Code by the private respondents is also pending.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. It appears that two civil suits are pending between adverse sides. A proceeding under Section 144 of the Code is also pending for which the police have already submitted a report. However, the police are keeping a sharp vigil in the locality.

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 exists a civil dispute regarding the property in question. Suit is pending over the same and a proceeding under Section 144 of the Code.

The private parties shall be at liberty to seek appropriate relief before the learned civil Court.

This Court can hardly interfere in a writ application for police inaction in a matter of such nature.

Accordingly, the writ petition is disposed of without any order as to costs.

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

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

(Jay Sengupta, J.)