

WPA 17956 of 2023

Deepak Kumar Ghosh @ Dipak Kumar Ghosh
-vs-
State of West Bengal & ors.

Mr. Sukanta Das
... for the petitioner

Mr. Suman Sengupta
Mr. Sanatan Panja
...for the State

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to investigate into the complaint made by the petitioner and to ensure that the order passed by the learned Sub-Divisional Executive Magistrate, Hooghly at Chinsurah in Miscellaneous Proceeding Case No. 814 of 2023 is strictly complied with.

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

Despite service, no one appears on behalf of the private respondent.

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 is the owner of the land in question. The private respondent is a rank outsider who is

disturbing his possession. The petitioner was compelled to file an application under Section 144 (2) of the Code of Criminal Procedure. The Learned Executive Magistrate was pleased to direct the police to maintain peace and tranquility. The police have failed to take steps to keep order at the place in question.

Learned counsel appearing on behalf of the State submits as follows. After a complaint was filed by the petitioner, a proceeding has been initiated by the police authorities under Section 107 of the Code of Criminal Procedure. An order passed by the Executive Magistrate cannot be sought to be executed by this Court.

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

It does not appear that any civil dispute exists between the petitioner and the private respondent. If the petitioner is the owner of the property and the private respondent does not have any claim over the same, then the private respondent has no business disturbing the petitioner in his enjoyment of such property.

It also appears that an order of the learned Executive Magistrate under Section 144 of the Code of Criminal Procedure is already there.

The police have also acted on a complaint made by the petitioner of initiating a proceeding under Section 107 of the Code.

In view of the same, no further order need be passed in this regard.

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

With these observations, the writ petition is disposed of.

Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)