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05.09.2023
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Ct 14

WPA 18999 of 2023

Sri Babu Roy

-vs-

State of West Bengal & ors.

Mr. Sujit Bhattacharyya

...for the petitioner

Mr. Sk. Md. Galib

Mr. S. Dewan

...for the State

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 has been in a possession of the suit property for the purpose of his business of running a lottery ticket shop since 2004. Since 2022, the private respondent started disturbing the peaceful possession of the petitioner. The petitioner was constrained to approach the learned Magistrate with a prayer under Section 107 of the Code of Criminal Procedure. He filed a civil suit being Title Suit No. 1690 of 2022 before the learned Civil Judge, Jr. Division, 7th Court, Howrah. On 12.12.2022,

the learned Civil Court passed an ad interim order of injunction restraining the defendants from creating any disturbance to the peaceful possession of the plaintiff. Yet, the private respondent has continued violate the order and has been disturbing the petitioner. From time to time, the interim order has been extended. The private respondent is not the owner of the property. It is a Thika Tenancy Property.

Learned counsel appearing on behalf of the State relies on a report, which is taken on record and submits as follows. The private respondent is the purported owner of the property in question. He claimed that there was an agreement that the petitioner would vacate the property after a point. This has led to such dispute. However, an order of injunction is there in favour of the petitioner. The police are keeping a watch in the locality.

It appears that there is a civil suit pending between the adverse parties. The private respondent has been restrained from creating any disturbance over the peaceful possession of the petitioner of the suit property by a Civil Court.

In such event, the respondent authorities shall keep a sharp vigil at the locale and ensure that no breach of peace takes place and that no order of a Civil Court is violated.

With these observations, the writ petition is disposed of.

Since affidavits were not called for, allegations are deemed not to have been admitted.

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

(Jay Sengupta, J.)