

WPA 19673 of 2023

Harisadhan Naskar

-vs-

State of West Bengal & ors.

Mr. Lakshminath Bhattacharya

....for the petitioner

Mr. Sk. Md. Galib

Ms. Sujata Mukherjee

...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 had purchased a property from the private respondent. Thereafter, dispute arose regarding use of the common pathway. The private respondent filed a civil suit in this regard by an order dated 27.07.2021 passed by the learned Civil Judge, Jr. Division, 3rd Court, Baruipur, South 24 Parganas in Title Suit No. 355 of 2021, the defendants i.e., the present petitioner herein was restrained from encroaching upon the scheduled road and not to disturb the free egress and ingress of the plaintiffs over the scheduled road. In that proceeding, it was

admitted by the private respondent herein that there was a common pathway. However, by misusing this order, the private respondent constructed a gate over the pathway. This was preventing the ambulance belonging to the petitioner's hospital from entering into the hospital. This was brought to the notice of the police. The police acted by removing the unauthorized gate. However, it is now apprehended that there could be some breach of peace done at the behest of the private respondents.

Learned counsel for the State relies on the report and submits as follows. A suit is pending between the private parties. However, on a complaint filed by the petitioner, the police have taken steps and started a proceeding under Section 107 of the Code.

It appears that a civil suit is already pending between the private parties.

It is also admitted by the petitioner that the gate illegally constructed by the private respondents on the pathway has been removed.

The State has already taken action on the complaint of the petitioner by initiating a proceeding under Section 107 of the Code.

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

However, the police shall keep 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.)