

46 08.09.2023
NB Ct. 14

WPA 19812 of 2023

Yusuf Ali
Vs.
The State of West Bengal & Ors.

Mr. Jahadar Alam,
Mr. Sk. Nezamuddin.
...for the petitioner.

Mr. Santanu Kumar Mitra,
Mr. Amartya Pal.
....for the State.

Mr. Gour Baran Sau,
Mr. Arshad Hussain.
...for the respondent nos.5 to 10.

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's great grandmother was the owner of the property in question. He gave it for charitable purpose to the Wakf Board. However, the petitioners were in possession of the same. The private respondents are the local villagers who are disturbing the peaceful possession of the petitioners of the said property. A civil suit had to be filed which was thereafter transferred to the Tribunal. The Tribunal passed an order of status quo to be maintained by the defendants therein. On 26.07.2023, the petitioner's mother died. When the petitioner came to the graveyard for the burial of his mother, the villagers obstructed. The Tribunal directed the police to help. The police did not render any assistance. Finally, the villagers

took the body and buried somewhere else. Thereafter, the private respondents even tried to demolish the Masjid and on 31.07.2023, they ousted the petitioners from their own house at Village Chakra, P.O. Amrakuchi, P.S.-Keshpur, Paschim Medinipur.

Learned counsel appearing on behalf of the private respondents submits as follows. The allegations made in the writ petition are denied. There is a pending dispute regarding the Wakf property in question. As an order of status quo has already been passed by the learned Tribunal, the villagers did not prevent the petitioners from burying the petitioner's mother. It was only requested that it should not be at the centre of the village. It is also not true that the private respondents ever threatened the petitioners or ousted them from their house.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. There is a civil dispute pending between the private parties. Upon complaints received from both the sides, two FIRs, each from one side, were registered and are being investigated into. The police did render help for the mother of the petitioner to get a decent burial.

It appears that a civil dispute is pending between the private parties over a Wakf property. The learned Tribunal is in seisin of the matter. Therefore, any further relief claimed by any of the parties shall have to be before the said Tribunal.

So far as the grievance of the petitioner and the other side regarding the breach of peace is concerned, the police have already acted and registered two separate FIRs, are being investigated into.

The private respondents have, however, categorically stated that they have not ousted the petitioners from their residential home. If that be so, there should be no difficulty for the petitioners to go back to their own residential house.

In case, any untoward incident happens in this regard or is apprehended by the petitioner, the petitioner shall be at liberty to inform the Officer-in-Charge of the local police station who shall then act in accordance with law.

With these observations, the writ petition is disposed of.

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

(Jay Sengupta, J.)