

17 15.09.2023
NB Ct. 14

WPA 20307 of 2023

Sk. Ajibar Rahaman
Vs.
The State of West Bengal & Ors.

Mr. Rafikul Islam Sardar.
...for the petitioner.

Mr. Pantu Deb Roy, Id. AGP,
Mr. Subrata Guha Biswas.
...for the State.

Mr. Sandip Ghosh,
Mr. Partha Sarkar.
...for the respondent nos.5 to 7.

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 is the owner of the property in question at plot no.1774. The private respondents claimed ownership of the adjacent plot being plot no.1775. Since time immemorial, the petitioners are enjoying an easement right over plot no.1775. If they do not use the narrow passage of the said plot for ingress and egress, they would not be able to approach the village road. Of late, the private respondents have been causing disturbances to the user of such passage by the petitioner. They have been disturbing and intimidating the petitioner and have finally blocked the passageway. This has been brought to the notice of the police, but no steps have been taken.

Learned counsel appearing on behalf of the private respondent submits as follows. The allegations made in the writ petition are denied. There is a civil suit pending over such right that was started at the behest of the petitioner. In a criminal case started, the private respondents have already been granted bail.

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 over the user of a passage. A proceeding had been initiated under Section 107 of the Code and a case was also filed under Section 144 of the Code of Criminal Procedure. On the complaint of the petitioner, a specific FIR being Gurap Police Station Case No.158 dated 23.08.2023 was started. The investigation is going on. The police authorities are keeping a close watch on the developments in the locality.

It appears that a civil suit is pending between the parties over the use of the common passageway. If the petitioner or any other party is claiming any right over the said passage, they shall be at liberty to approach the civil Court for such purpose.

So far as the allegations of threat and other wrong doings are concerned, the police have already acted on the complaint made by the petitioner and have registered a specific FIR.

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

However, the police authorities shall keep a sharp 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 may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)