

23 18.09.2023
NB Ct. 14

WPA 20308 of 2023

Sudhangshu Kamila
Vs.
The State of West Bengal & Ors.

Mr. Manoranjan Jana.
...for the petitioner.

Mr. Ashim Kr. Ganguly,
Md. Masood.
...for the State.

Mr. S. M. Hassan,
Mr. Anupama Yasmin
...for the respondent nos.7&8.

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 land in question. The private respondents had approached the petitioner for permission to keep some articles like water bottles there. In spite of an understanding that he would vacate on the petitioner's request, he is not vacating the land despite demand. The petitioner filed an application under Section 144(2) of the Code and an order was passed to evict the private respondents. Yet, no police help has been rendered in this regard.

Learned counsel appearing on behalf of the private respondents submits as follows. There was an agreement entered into between the petitioner and the private

respondents pursuant to which the respondents constructed two storied house in the property and is carrying on business. He even has a trade license in this regard. Eviction, if any, has to be in accordance with law.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. Upon enquiry, it was found that the petitioner was staying elsewhere and about 3 or 4 years ago, the petitioner gave his house to the opposite party members on rent. Then the petitioner permitted the private respondents to construct a water project as well as residence on his plot no.605 and Plot Nos.605/2059 at Paldhui Mouza. Presently, the petitioner wants that the private respondents should vacate the property.

It appears that there is a civil dispute between the private parties and eviction, if any, has to be in accordance with law.

The learned Executive Magistrate under Section 144 of the Code exceeded the mandate by directing vacating of the premises.

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

However, the concerned police authorities 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 may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)

