

September 15, 2023
AD 30
Court No.14
SG

WPA 20389 of 2023

Sukumar Barik and others
vs
State of West Bengal and others

Mr. Gouranga Kumar Das
... for the petitioners

Mr. Nabhajit Prasad Basu
Mr. Arindam Mitra
... for the State

Mr. Manoranjan Jana
Ms. Mitali Jana
... for the private respondents

Affidavit of service filed in Court is taken on record.

A report filed by the State is also taken on record.

Learned advocate for the petitioners submits as follows. The petitioners are the owners of the property in question along with co-shares. The private respondents are disturbing the peaceful possession of the petitioners in respect of their shares of the property. In fact, they are undertaking illegal construction. Both the sides have obtained order from the learned Executive Magistrate in terms of Section 144(2) of the Code. However, in the proceedings instituted by the other side, the Magistrate passed an illegal order.

Learned advocate for the private respondent Nos.5, 6 and 8 submits as follows. The petitioners had filed a partition suit over the dispute. However, during the pendency of the same, the petitioners sold away a portion of such property. Because of this, the trial court did not allow the petitioners to withdraw the suit and treated the

original defendants as the plaintiffs therein. The same is still pending. The construction is being undertaken by the private respondents according to a sanctioned plan.

Learned advocate for the State relies on the report and submits as follows. On the complaint of the petitioners, the police had lodged two FIRs. Charge-sheets have been submitted. A partition suit is pending over the dispute and the police are keeping a sharp vigil at the locale.

It appears that a suit is pending between the private parties. If any of the parties seek relief in respect of the said property, the same has to be made before the civil court.

It further appears that on the complaints of the petitioners, FIRs were lodged and charge-sheets were submitted.

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

The police 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 certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

[Jay Sengupta, J.]

