

September 18, 2023
AD 30
Court No.14
SG

WPA 20459 of 2023

Kanak Kanti Ray
vs
State of West Bengal and others

Mr. Sk. Md. Masud
Mr. Sk. Moinuddin
Mr. Arshad Hussain
... for the petitioner
Mr. Ashim Kumar Ganguly
... for the State
Mr. Sourav Paul
... for the respondent Nos.5, 6, 7, 9, 11 & 13

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 petitioner submits as follows. The petitioner is the owner of the property in question at village-Pachpara, PS-Mograhat, district-South 24 Parganas. The private respondents are anti-social elements of the locality who had been disturbing the petitioner's possession in respect of such property. They had been threatening and intimidating the petitioner. One day, they attacked the house of the petitioner, looted away articles and practically demolished several rooms. This was brought to the notice of the police, but no steps have been taken.

Learned advocate for the respondent Nos.5, 6, 7, 9, 11 and 13 submits as follows. The allegations made in the writ petition are denied. The respondent No.10 died even before the writ petition was filed. The private respondents are the adjoining land-owners who have no

claim over the property of the petitioner. They are not at all disturbing the petitioner in any way.

Learned advocate for the State relies on the report and submits as follows. The petitioner has already moved an application under Section 144(2) of the Code. On the complaint of the petitioner, a proceeding was initiated under Section 107 of the Code. The police are keeping a close watch on the developments in the locality.

If the private respondents are not claiming anything over the petitioner's property, then one wonder as to why the petitioner made such serious allegations against them.

From the letter of complaint which appended to the writ petition at page 32, it appears that a prima facie cognizable case is made out. Yet, no FIR was registered.

The petitioner shall be at liberty to proceed in terms of the ratio laid down in *Aleque Padamsee's* case, reported at (2007) 6 SCC 171.

Even otherwise, the police shall maintain a strict vigil at the locale and ensure that no breach of peace takes place and no order of a competent court is violated.

Accordingly, the writ petition is disposed of without any order as to costs.

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

[Jay Sengupta, J.]

