

October 12, 2023
AD 19
Ct. No.14
SG

WPA 20463 of 2023

Mohan Chandra Ghosh
vs
State of West Bengal and others

Mr. Shahan Shah
Mr. Soumen Barman
... for the petitioner

Mr. Santanu Kumar Mtira
Ms. Rama Halder
... for the State

Mr. Shibasis Chatterjee
... for the respondent Nos.4 -7

A copy of the judgment dated 28.08.2019 passed by the learned Additional District Judge, Berhampore, Murshidabad in Title Appeal No.39 of 2011, as filed in Court on behalf of the petitioner, is taken on record.

Report filed by the State is also taken on record.

Learned advocate for the petitioner submits as follows. The petitioner is a co-sharer of the property in question. The private respondents have been trying to disturb the petitioner's possession of the said property. This prompted the petitioner to file a partition suit being Partition Suit No.398 of 2005 before the learned Additional District Judge, Berhampore, Murshidabad. A preliminary decree was passed in favour of the petitioner declaring that he was the owner of 50% of the property. However, learned appellate court set aside the decree on a technical ground and remanded it back to the trial court

for necessary order. A civil suit is pending. The private respondents continue to harass and intimidate the petitioner by using force and trying to offset the procedure pending before the civil court.

Learned advocate for the private respondent Nos.4 to 7 submits that the allegations made in the writ petition are denied. The private respondents have not applied any force upon the petitioner or tried to disturb the possession of the petitioner over a part of the said property.

Learned advocate for the State relies on the report and submits that a civil suit is pending between the private parties. A proceeding is also pending before the WBLRT.

It appears that a civil dispute between the private parties and the partition suit over the property are pending in this regard.

If any of the parties claim any further right over the said property, the said has to be done before the competent civil court.

It is further submitted by the private respondents that they had been applied force and tried to disturb the possession of the petitioner over a portion of the property.

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

However, the police shall keep a sharp vigil at the locale and ensure that no breach of peace takes place and to see that no order of a civil court is violated.

With these observations, the writ petition is disposed of.

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

[Jay Sengupta, J.]