

20 25.09.2023
NB Ct. 14

WPA 20783 of 2023

Pinaki Jana
Vs.
The State of West Bengal & Ors.

Mr. Gouranga Kumar Das.
...for the petitioner.

Mr. Santanu Kumar Mitra,
Mr. Amartya Pal.
...for the State.

Mr. Partha Sarathi Mondal.
..for the respondent nos.5 to 11.

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 and his brother are the patta holders of the land in question. The private respondents are rank outsiders who are disturbing the peaceful possession of the petitioner and his brother in respect of such property. The petitioner and his brother filed a civil suit in this regard. By an order dated 23.02.2023 passed by the learned Civil Judge (Junior Division), Kakdwip in Title Suit No.27 of 2023, the defendants were restrained from disturbing the plaintiffs' peaceful possession over the suit property. The interim order was extended from time to time. Subsequently, the petitioner also obtained an order under Section 144(2) of the Code in this regard. Yet, the private respondents continued to violate

such orders and threatened and intimidated the petitioner. Police help was sought, but was denied.

Learned counsel appearing on behalf of the private respondents submits as follows. The property actually belongs to Sri Sri Bisalakkhi Devi. The villagers only want to protect the Debottar Sampatti from the clutches of the petitioner.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. The reply from the BL & LRO, reveals that the land actually belongs to Sri Sri Bisalakkhi Devi and is a Debottar Sampatti. However, in the title suit in question, an interim order of injunction has been granted in favour of the present petitioner and an order has also been passed in tune with the same under Section 144(2) of the Code. On the complaint of the petitioner, the respondent authorities have already initiated a proceeding under Section 107 of the Code.

It appears that there is a civil dispute is pending between the adverse parties. While the BL & LRO's reply to the requisition made by the police authorities indicate that the land is a Debottar Sampatti belonging to one Sri Sri Bisalakkhi Devi, the petitioner has already staked claim to the property as patta holders. They have obtained a restraining order upon the defendants in a civil suit as well as a favourable order in a proceeding under Section 144(2) of the Code.

Claim of any right in respect of such property has to be established before the learned civil Court.

However, on the question of apprehension of breach of peace, the police authorities have already acted on the

complaint made by the petitioner and have initiated a proceeding under Section 107 of the Code.

Let the respondent authorities keep a sharp vigil at the locale and ensure that no breach of peace takes place.

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.)