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16.10.2023
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Ct 14

WPA 21751 of 2023

Sushanta Mondal

-vs-

State of West Bengal & ors..

Mr. Amitabha Ghosh

...for the petitioner

Mr. Supriyo Das

Mr. Aman Baid

...for the respondent nos. 3 to 5

Mr. Jayanta Samanta

Mr. Kushal Biswas

...for the State

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 being unduly harassed by the local police and the private respondents. His complaint has not been registered as an FIR. On the contrary, he was asked to come to the police station and thereafter, an attempt was made to extort money from him to allegedly to compensate the private respondents. On one occasion, the private respondents demolished the godown of the petitioner and looted away articles.

Learned counsel appearing on behalf of State relies on the report and submits as follows. There are cases and

counter cases filed by the private parties against each other. There is an allegation made by the private parties that the petitioner constructed a building beyond the sanctioned plan and took money in order to convey one flat. When the defacto complainant in one such case went to obtain loan from the bank, loan was not granted as there was deviation from the plan. He filed an FIR, *inter alia*, under Sections 420 and 406 of the Penal Code. Subsequently, another FIR was lodged against the petitioner, *inter alia*, under Section 326 of the Penal Code. The cases are being investigated.

Learned counsel appearing on behalf of the private respondents submits as follows. The allegations made in the writ petition are denied. The construction of the building was done beyond the sanctioned plan. Reliance is placed on order dated 22.1.2020 passed by the Executive Engineer, Building Plan, Bidhannagar Municipal Corporation directing demolition of a portion of the building.

At this stage, it is disputed by the petitioner that the demolition should have taken place also in respect of the godown.

It appears that there is a dispute between the private parties over the sale of a flat in the building in question.

There are cases filed in this regard.

So far as the complaint of the petitioner appended at page 80 of the writ petition is concerned, the petitioner shall be at liberty to act in terms of the ratio laid down in Aleque Padamsee's Case, (2007) 6 SCC 171.

As regards the question of demolition of the godown, this Court cannot act on the basis of disputed facts. The petitioner shall be at liberty to agitate the issue before the appropriate forum.

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

The pending cases shall be investigated in accordance with law.

With these observations, the writ petition is disposed of without any costs.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)