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23.11.2023
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Ct 14

WPA 22320 of 2023

Ashis Kamila

-vs-

The State of West Bengal & ors..

Mr. Amit Baran Dash

Ms. Ankana Sarkar

...for the petitioner

Ms. Sonal Sinha

Mr. Avishek Prasad

...for the State

Mr. Manoranjan Jana

...for the private respondents

Report filed on behalf of the State is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner has purchased the property in question from a co-sharer. In spite of that, the private respondents are disturbing the possession and enjoyment of such property by the petitioner. The petitioner was constrained to move an application before the learned Magistrate under Section 144 of the Code and a restraining order was passed on 04.07.2023 directing the other side not to obstruct the passage and close and lock the iron gate over the passage. Although this order was communicated to the police authorities, no help was rendered.

Learned counsel for the private respondents submits as follows. The allegations made in the writ petition are denied. The petitioner claims to have purchased a share in

the joint property from one of the co-sharers. The sale is bad in law as no offer was made to the other co-sharers to purchase such property. The private respondents were constrained to approach the learned Magistrate under Section 144 of the Code. The learned Magistrate was pleased to pass a direction upon the petitioner not to disturb the construction over the proportionate area of the occupied suit property. If any of the parties wants to establish their rights over the said property, the same has to be done before a Civil Court.

Learned counsel for the State denies any police inaction. She submits that on the complaint of the petitioner, a proceeding has been initiated under Section 107 of the Code. Charge sheets have been filed in the FIRs that had been lodged.

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

However, the police authorities shall 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 without costs.

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

(Jay Sengupta, J.)