

WPA 22617 of 2023

Shri Madan Mohan Chakraborty & ors.

-vs-

The State of West Bengal & ors..

Mr. Mohan Kumar Sanyal

Mr. Arunesh Pathak

...for the petitioners

Mr. Kingsuk Mondal

...for the private respondent

Mr. Santanu Kr. Mitra

Ms. Rama Halder

...for the State

Affidavit of service filed on behalf of the petitioners is taken on record.

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

Learned counsel for the petitioners submits as follows. The petitioners are the owners of the land in question. They have filed a partition suit in respect of the same. The private respondent is a rank outsider who is disturbing the peaceful possession and enjoyment of the property by the petitioner. In fact, he is taking away soil from the said landed property. This was brought to the notice of the police station, but no action was taken.

Learned counsel for the private respondent submits as follows. The allegations made in the writ petition are denied. The private respondent had purchased a share in the property from one of the co-sharers. But, he was not impleaded in the partition suit. He is not taking away soil

from the property.

Learned for the State relies on the report and submits as follows. There is no police inaction in this matter. The police have already taken steps by instituting a proceeding under Section 107 of the Code. On the complaint of the petitioner, the police are keeping a close watch on the developments in the locality.

Even if the private respondent is a co-sharer in the property, he has no right to take away soil from the same. However, fortunately the private respondent has submitted that he had not taken away soil from the property.

In the event any such unlawful activity is done by any of the parties, the same may be brought to the notice of the local police who shall then act in accordance with law.

If any of the parties want to establish any further right in respect of such property, the same has to be done before a Civil Court.

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

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

With these observations, the writ petition is disposed of.

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

(Jay Sengupta, J.)

