

October 10, 2023
AD 212
Ct. No.14
SG

WPA 23107 of 2023

Bankey Lal Jaiswal
vs
State of West Bengal and others

Mr. S. Sanyal
... for the petitioner

Mr. Amitesh Banerjee
Mr. Ansar Mondal
Md. Idrish
... for the State

Ms. Shebatee Datta
Ms. Babita Dey
... for the respondent No.8

Affidavit of service filed by 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 the owner of the property in question. The private respondent is a local club who had been trying to encroach upon the petitioner's property. A civil suit was filed in this regard and an order of injunction was passed in favour of the petitioner. In spite of that, the private respondent is not complying with the same. In fact, they demolished the boundary wall of the petitioner's property and made an illegal construction. The petitioner had to move a writ petition in this regard. This Court directed demolition of the unauthorised structure. Steps are being taken in this regard. A revisional application challenging the maintainability of the civil suit was earlier dismissed by this Court.

Learned advocate for the State relies on the report and submits as follows. Pursuant to the order passed by the civil court, the police authorities had pasted a notice at the relevant portion of the property. They have also started a criminal case under Section 188 of the Penal Code for violation of the order by the private respondent.

Learned advocate for the private respondent submits as follows. The allegations made in the writ petition are denied. The private respondent is carrying on Durga Puja at the said place for the last 19 years. The interim order passed by the civil court has already been appealed against and an application under Order 39 Rule 4 is pending.

It appears that an order has already been passed by a competent civil court in favour of the present petitioner. An order had to be passed by this Court in a writ application to removal of unauthorised construction made by the private respondent on the petitioner's property.

It is clear that, as of now, the private respondent has no right to encroach upon the petitioner's property and hold Durga Puja on such land.

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

[Jay Sengupta, J.]