

34 01.12.2023
NB Ct. 14

WPA 23320 of 2023

Subrata Sarkar
Vs.
The State of West Bengal & Ors.

Mr. Ayan Banerjee,
Ms. Debjani Sengupta.
..for the petitioner.

Mr. Suman Ghosh,
Mr. Soumen Chatterjee.
...for the State.

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

It appears that the private respondents refused to accept service of notice.

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 the owner of the property in question. The private respondents are antisocial elements of the locality who had been disturbing the peaceful possession and enjoyment of the property by the petitioner. Several complaints were made before the police authorities, but no effective steps were taken. The petitioner was compelled to approach the civil Court. The Court passed an order of injunction restraining the defendants from disturbing the peaceful possession of the petitioner. On an application under Section 151 of the CPC. The Court asked for a report from the police authorities. In their report, the police clearly indicated that the private respondents/defendants were of desperate nature

and they were violating the injunction order. Thus, there was an apprehension of breach of peace. Accordingly, an order was passed for police help. Despite this, the private respondents are violating the order and threatening the petitioner. The petitioner is unable even to enter his own property.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. Police have taken steps on the complaint of the petitioner and a proceeding was drawn up under Section 107 of the Code of Criminal Procedure. In fact, the police have acted on complaints that have been from both the sides. The police are keeping a close watch on the developments in the locality.

It does not appear that the private respondents had raised a civil dispute. On the contrary, in the civil suit instituted by the petitioner, an injunction was granted restraining the defendants from disturbing the petitioner's possession of the property. The police have opined that the private respondents were of desperate nature and were violating the Court's order.

The police have taken steps by instituting a proceeding under Section 107 of the Code of Criminal Procedure.

In the facts of the present case, it would be incumbent upon the police authorities to keep a sharp vigil at the locale to ensure that no breach of peace takes place and to see to it that no order of a civil Court is violated.

The surveillance to be done shall include sending of frequent police patrols to the area.

In the event any untoward incident occurs or is apprehended by the petitioner, he shall be at liberty to inform

the Officer-in-Charge of the Kaliyaganj Police Station who shall then act in accordance with law.

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.)