

33. 13.12.2023
Court No.14
(Tanmoy)

WPA 23860 of 2023

**Sri Radheshyam Das & Anr.
-Versus-
The State of West Bengal & Ors.**

Mr. Debasish Das, Adv.
...for the petitioners.

Mr. Suman Ghosh, Adv.,
Mr. Sankha Prasad Roy, Adv.
...for the State.

Mr. Debasis Sur, Adv.,
Mr. Hare Krishna Halder, Adv.,
Mr. Angshuman Patra, Adv.
...for the respondent no.11.

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

Despite service, no one appears on behalf of the private respondents except for the respondent no.11.

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

Learned Counsel appearing on behalf of the petitioner submits as follows. The petitioners are the *patta* holders for the land in question. They had been cultivating the same for quite some time. The private respondents are rank outsiders. They have no right, title and interest in the property. Yet they had been disturbing the possession and enjoyment of property by the petitioners for some time. The petitioners were constrained to move the civil court. On June 15, 2023,

the learned Civil Judge (Junior Division), 1st Additional Court, Contai, Purba Medinipur, by an order passed in T.S. No.54 of 2022, restrained the defendants from disturbing the physical possession and enjoyment of the property. After this, a favourable order was granted to the petitioners, under Section 144(2) of the Code of Criminal Procedure, 1973. Despite these, the private respondents are continuing to disturb the petitioners. No steps have been taken by the Police although all these incidents were reported to them. The private respondents even made an application for cancelling the *patta* of the petitioners, but the same was rejected. Even after all these, the private respondents have reaped the paddy harvested by the petitioner. Complaint was made by the petitioners to the Police, but in vain.

Learned Counsel appearing on behalf of the private respondent no.11 submits as follows. Allegations made in the writ petition are denied. An application is still pending for cancellation of *patta* before the concerned Block Land and Land Reforms Officer (BL&LRO).

Learned Counsel appearing on behalf of the State relies on the report and submits as follows. There is some conflict between the private parties. However, on the complaints made by both the parties, steps have been taken by the Police. In fact, on the complaint of the petitioner, a proceeding was initiated under Section 107 of the Code.

It appears that the *patta* granted to the petitioner has not been cancelled by any Court as of now. On the contrary, there is a civil court's order restraining the defendants from disturbing the peaceful possession and enjoyment of the property by the petitioners. Therefore, without obtaining necessary order from a civil court or from a Competent Authority, the private respondents have no authority to physically disturb the possession and enjoyment of the property by the petitioners.

If the recent complaint made by the petitioners regarding reaping of his paddy makes out a cognizable offence, an FIR should be registered and investigated.

The Police authority shall keep a sharp vigil at the locale ensuring that no breach of peace takes place and see to it that no order of a civil court is violated.

If any untoward incident occurs or is apprehended, the petitioners shall be at liberty to inform the local Police authority who shall then act in accordance with law.

Since affidavits have not been called for, the allegations made in this writ petition shall be deemed not to have been admitted.

With the above observations, the writ petition is disposed of.

Urgent photostat certified copy of this order, if applied for, be made available to the parties, upon compliance with all requisite formalities

(Jay Sengupta, J.)