

October 5, 2023
AD 15
Court No.14
SG

WPA 23870 of 2023

Khagendranath Ghosh
vs
State of West Bengal and others

Mr. Malay Bhattacharya
... for the petitioner
Mr. Ansar Mondal
Mr. Asish Dutta
... for the State

Mr. Sankar Prasad Dalapati
Mr. Sourav Mondal
... for the respondent Nos.4 to 7

Affidavit of service filed in Court 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 running a shop at the property in question. He has a valid trade licence for the same. His son had contested the gram panchayat election in the year 2023 for an opposition political party. After that the local authorities and the local miscreants had been creating pressure and disturbing the peaceful possession of the petitioner in respect of such property and shop. The petitioner was constrained to move an application before the learned Executive Magistrate under Section 144 of the Code and obtain an order. In spite of this, the private respondents and the concerned police personnel came and closed down the shop of the petitioner.

Learned advocate for the private respondents submits as follows. The allegations made in the writ petition are denied. The private respondents are cousin

brothers of the petitioner and have some right in respect of the shop. However, the private respondents have not disturbed the possession of the petitioner in respect of the shop.

Learned advocate for the State relies on the report and submits that on the complaint of the petitioner, a proceeding was initiated under Section 107 of the Code. However, there is a dispute between the private parties over their rights in respect of the shop. In fact, the petitioner had unilaterally changed the name of the shop. The police authorities have not closed down the shop room of the petitioner.

It appears that there are some disputes between the private parties over their rights in respect of the shop in question. If the private respondents want to exercise such rights and claim any further relief, the same has to be done before a civil court and not by using force.

However, the private respondents have submitted that they have not applied force and not tried to disturb the peaceful possession of the petitioner in respect of the property and shop.

Therefore, there is no impediment upon the petitioner to open his shop room and run his business, as of now.

The police seem to have taken steps by initiating a proceeding under Section 107 of the Code on the complaint of the petitioner.

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

However, the police shall keep a sharp vigil at the locale and ensure that no breach of peace takes place and 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.]