

23 14.12.2023
NB Ct. 14

WPA 23869 of 2023

Rina Dutta
Vs.
The State of West Bengal & Ors.

Mr. Aswini Kr. Bera,
Mr. Arijit Bera.
...for the petitioner.

Mr. Ashim Kr. Ganguly,
Ms. Jyotsna Roy Mukherjee.
....for the State.

Mr. Uday Narayan Betal.
..for the respondent no.6.

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

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 had purchased the property in question in the year 1988. The private respondents are the adjacent land owners. The private respondents had affirmed such sale. Yet, now they are disturbing the possession and enjoyment of such property by the petitioner. The petitioner wants to put a fencing surrounding the property. But the private respondents are creating disturbances there. The private respondents got a favourable order before the learned Trial Court. In appeal, this was set aside and the petitioner's right was established. In fact, the private respondents' second appeal was also dismissed. Despite this, the private

respondents are creating disturbances and police are not paying any heed to the petitioner's complaint.

Learned counsel appears on behalf of the private respondents submits as follows. The allegations made in the writ petition are denied. The private respondents never affirmed the deed of purchase in question. However, the private respondents are not disturbing anyone's possession of the said property.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. There appears to exist a civil dispute between the private parties. The land is not demarcated. On the complaint of the petitioner, a proceeding has been initiated under Section 107 of the Code.

It appears that a civil dispute existed between the private parties. However, the right of the petitioner to the property in question was established by an order of the civil Court.

If any of the parties wants to establish any further right in respect of the said property, the same has to be done before a civil Court.

If the petitioner wishes to have the land demarcated for putting up a fencing, he shall be at liberty to do so, unless the private respondents can bring any order to the contrary. They shall also be at liberty to seek police help for such purpose.

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 may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)