

WPA 23918 of 2023

Sk. Ali Hasan & another

-vs-

The State of West Bengal & ors.

Mr. Md. Hafiz Ali

Mr. Sk. Saifuddin

Mr. Shantha Sarkar

...for the petitioners

Mr. Panchanan Khatua

Mr. Ziaul Hoque

...for the respondent nos. 5, 6, 7, 10 & 11

Mr. Asish Kumar Guha

Mr. Rajendra Chaturvedi

...for the State respondents

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

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

Learned counsel for the petitioners submits as follows. The petitioners are the owners of the property in question. All of a sudden, they noticed that the private respondents, who were rank outsiders, were erecting a boundary wall over his land. They objected to the same, but they did not listen. They had to approach a Magistrate under Section 144 of the Code of Criminal Procedure. A favourable order was granted to maintain peace. Despite this, the private respondents are violating the order and police are not acting on the complaint of the petitioner.

Learned counsel appearing on behalf of the private

respondents relies on a copy of judgment and order dated 06.07.2017 by which the 2nd Civil Judge, Sr. Division, Baruipur had passed a decree in respect of the said land in favour of the petitioners in T.S. No. 156 of 2017. A bailiff handed over possession of the property to the private respondents. They are now trying to create a boundary wall to protect the property. In fact, it is the petitioners who were illegally obstructing same.

Learned counsel appearing on behalf of the State submits that on the complaint of the petitioners, a proceeding has been drawn up under Section 107 of the Code.

It appears that a civil dispute exists between the private parties. It is claimed by the private respondents that a decree was passed in their favour and the bailiff handed over possession of the property to them.

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.

Therefore, no further order need be passed in this application for police inaction.

However, 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.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)

