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11.10.2023
A.G.M.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 23933 of 2023

**Abhijit Maliek & Ors.
-versus
The State of West Bengal & Ors.**

**Mr. Soumyajit Bhatta
Mr. Prasenjit De
...For the Petitioners.**

**Mr. Debabrata Banerjee
Mr. Sasthi Charan Dhara
... For the State.**

Affidavit-of-service filed in Court today is taken on record.

The petitioners are aggrieved by the act of the Gram Panchayat in performing the Durga Puja over dag no. 1337 which is recorded in favour of the petitioners.

It appears from the documents annexed to the writ petition that a Partition Suit being T.S. No. 374 of 2017 was filed by the predecessor-in-interest of the petitioners and by judgment dated 25th March, 2019, the learned Court passed the preliminary decree.

The plaintiff was allotted 11 sataks of land and the defendant was allotted 8 sataks of land. According to the petitioners, 8 sataks of land has already been utilised by the Panchayat for construction of road and the balance 11 sataks belongs to the petitioners.

Final decree is yet to be passed.

The petitioners submit that the Panchayat is giving permission to the puja committee for performing Durga Puja in such a manner that the free ingress and egress to the petitioners' plot is being obstructed.

The petitioners rely upon an order dated 5th September, 2019 passed by a Co-ordinate Bench of this Court in W.P. 16746 (W) of 2019 (Samares Chandra Maity –Vs- The State of West Bengal & Ors) wherein the Court directed that the police will not permit holding of the Durga Puja on the plot concerned without written consent of the petitioners.

In the present case, the petitioners are not inclined to give consent in favour of the puja committee for holding the Durga Puja in such a manner that their free ingress and egress to the plot is being obstructed.

Learned advocate representing the State respondents has obtained instruction from the Bhadreswar Police Station wherefrom it appears that the puja in question is held for the last 13 years in the said place and Panchayat has granted approval to the Puja committee for holding the Puja.

Admittedly, the Puja in question is not being performed by the Panchayat, but the Panchayat is permitting the local puja committee to perform the Puja.

The Panchayat ought to have obtained prior written consent from the petitioners before permitting

the Puja committee to perform the Puja. Consent has not been obtained from the petitioners.

As it has been submitted that the Puja is being performed for quite some time and the final decree is awaiting, accordingly, the Court is of the opinion that the Puja may be performed provided a formal consent is obtained from the petitioners.

The police shall ensure that free ingress and egress to the petitioners' plot is not obstructed by the Puja committee.

Performance of the Puja will not create any right or equity in favour of the Puja committee to perform Puja each and every year without obtaining any consent from the owners of the subject plot.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)