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Ct 14

WPA 24517 of 2023

Rabiul Sardar
-vs-
State of West Bengal & ors.

Mr. Sayan Banerjee
...for the petitioner
Mr. D. Banerjee
Mr. Steven S. Biswas
...for the respondent nos. 9 to 16
Mr. Amitesh Banerjee
Ms. Ipsita Banerjee
Mr. Tarak Karan
...for the State

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 is the owner of the property in question. He has a few shops rooms there on the main road, which he had let out to some others to run their business. After the panchayat election, the private respondents have suddenly come and shut down those shop rooms. The police are assisting them in this illegal act.

Learned counsel appearing on behalf of the private respondents submits as follows. The private respondents are the co-sharers in the said property. By having those shops

run by others, the petitioner is trying to establish some special right in the said property. There is no political color in this dispute. However, the private respondents have not applied any force to stop running of the shops.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. There is an existing dispute between the private parties over the property in question. In connection with this, the police authorities had initiated a proceeding under Section 107 of the Code. However, the dispute is substantially civil in nature.

If a co-sharer in a property tries to establish some special right in respect of such property, the other co-sharer shall be at liberty to thwart such effort by initiating an appropriate proceeding before the Civil Court. But by use of brute force, no action can be taken to prevent the other co-sharer, for instance, from running a shop.

It also appears that the private respondents have claimed not to have applied any force in trying to stop the petitioner from letting out the shops rooms.

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

However, the police authorities shall keep a sharp vigil at the locale, ensure that no breach of peace takes place and in the event the petitioner finds out difficult to open the shop rooms, render necessary police help.

With these observations, the writ petition is disposed of.

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

(Jay Sengupta, J.)