

27.03.2023
Court No.13
Item No.23
AP

WPA 25702 of 2022

**Malay Kumar Roy
Vs.
The State of West Bengal and Ors.**

Mr. Bhaskar Prosad Banerjee
Mr. Parashar Baidya

... For the Petitioner.

Ms. Chaitali Bhattacharya
Mr. Mrinal Kanti Biswas

... For the State.

Mr. Mrinal Kanti Ghosh

... For the Private Respondent.

The petitioner claims that his rights in respect of the property have been established in a decree passed in Partition Suit No.71 of 1969. Final decree was passed on 23rd June, 1999. The petitioner submits that the private respondents are trying to encroach upon his property despite a demarcation therein in such suit.

Counsel for the private respondents submits that the decree in the suit has been modified in an appeal before this Court. The decree has been remanded back. No such order has produced before this Court by the parties.

It is submitted that there is a further civil suit filed by a third party against the petitioner as well as the private respondents being TS No.165 of 2009 before the learned Civil Judge (Junior Division), 1st Court at Malda.

Counsel for the Habibpur Police Station submits that the petitioner is trying to occupy the entire property including that of the private respondents.

This Court is of the view that the dispute between the parties is purely civil in nature. Appropriate orders/clarifications may be obtained from the Civil Court either by a fresh suit or any pending proceeding.

Habibpur Police Station shall, however, ensure that there is absolutely no breach of peace in the area.

With the aforesaid directions, the writ petition is disposed of.

There shall be no order as to costs.

Report in the form of instructions dated 29th November, 2022 filed by the Inspector-in-Charge, Habibpur Police Station, Malda is taken on record.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)