

15-06-2023
Court No.2
bm/47.

**In The High Court At Calcutta
Jalpaiguri Circuit Bench**

W.P.A. 558 of 2023

**Lalit Kumar Sarkar @ Lalit Sarkar
Vs.
The State of West Bengal & Ors.**

Mr. Sudhindra Das,

.....for the petitioner

Mr. Subir Kumar Saha,
Mr. Momenur Rahman,
..... for the State

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities, especially, then respondent nos.2 and 3 to ensure rehabilitation of the petitioner and his family members in the dwelling house located at the place mentioned and to give them compensation for the agony and harassment.

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

Learned counsel for the petitioner submits as follows. The respondent nos. 4 to 8 had been trying to grab the petitioner's land. The

wife of the petitioner alleged that the respondent no.4 with another entered into the premises of the petitioner and assaulted him brutally. On 3.3.2021 the respondent no.4 assaulted the wife of the petitioner and the mother-in-law of the petitioner and the mother-in-law had to be admitted to the Moynaguri hospital. She had to be hospital again. Thereafter on 11.5.2021 respondent no.4 set the petitioner's house on fire. On 13.5.2021 the wife of the petitioner lodged a complaint in this regard. A writ petition was filed in this regard which was, however, dismissed for default on non-appearance. On 17.2.2023 a complaint has been lodged against the respondent no.3. The respondent authorities have not performed their duties and not lent any credence for the complaint filed by the petitioner and his family members. There is an urgent need for the petitioner's rehabilitation and compensation.

Learned counsel for the State relies on the report and submits as follows. The respondent authorities have meticulously dealt the complaints lodged by the petitioner and his wife. However, there are cross-

complaint lodged by the other side. On 1.4.2021 Smt. Kakali Roy from the other side lodged an FIR against the petitioner, inter alia, under Sections 448/323/354/427/241 of the Indian Penal Code. A charge-sheet was submitted in this case too. On the complaint of the de facto complainant another FIR being No.284 dated 2.6.2014 was registered. Incidentally, the petitioner's side did not approach the police over the alleged incident of 31.3.2021. It is further germane to mention that the petitioner's brother Lalit Kumar Sarkar, respondent no.6 and Prafulla Sarkar are full-blooded brothers and are having ongoing disputes over the issue of possession of ancestral land.

I have heard the learned counsels for the parties and have perused the writ petition and the report.

It appears that the issues that led to the registration of the FIR are disputes between relatives over their ancestral land.

It further appears that once allegations were made by either of the parties, action was taken by the police authorities. FIRs were registered and charge sheet/s was submitted.

Therefore, I do not find any police inaction or excess in the case.

If the petitioner wants to be rehabilitated in the property so that they make take possession of some land, it is not for this Court to pass any order under Article 226 of the Constitution of India. The petitioner shall be at liberty to file appropriate proceeding before a learned civil court.

With this observation, the writ petition is disposed of without cost.

Urgent Xerox certified copy of this order, if applied for, be supplied on priority basis.

(Jay Sengupta, J.)