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11.04.2023
SB
Ct. No. 2

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A. 847 of 2023

Lachman Mahato
-versus-
The State of West Bengal & Ors.

Ms. Matan Chakraborty, ... For the petitioner

Mr. Subir Kumar Saha, Ld. A.G.P.
Mr. Momenur Rahman
... For the State

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

None appears on behalf of the respondents.

Mr. Subir Kumar Saha, learned A.G.P. is present
in this Court for other matters. Since he normally
appears in this type of matters representing the State /
respondent, he is requested to appear in the matter
and to hold the brief to assist this Court. He will be at
liberty to take a junior of his choice. The appearance of
Mr. Subir Kumar Saha, learned A.G.P. along with his
chosen junior Mr. Momenur Rahman, learned counsel
are directed to be regularized by the office of the Legal
Remembrances forthwith.

A copy of the writ petition has been served upon
Mr. Saha in Court today.

Drawing my attention to **Annexure P-5 at Page 25 and Annexure P-6 at Page 26 to the writ petition**, Ms. Chakraborty, learned counsel appearing on behalf of the petitioner submitted that despite repeated complaints being made before the Police Authority, the Jurisdictional Police Authority failed and neglected to take any step and to protect the interest to the petitioner so that the petitioner can cultivate and carrying on tea business in every possible manner from **his tea garden at Malbazar under the name and style Mahato Te situated at Malbazar, Jalpaiguri as would be evident from Annexure P-2 at Page 18 to the writ petition**. She submitted that, the private respondent nos. 7 & 8 are causing serious disturbance and resistance to the petitioner and thereby resisting the petitioner to carry out his business smoothly. The private respondents had already lodged several complaints which were registered in the form of F.I.R. by the relevant police authority and the police authorities are proceeded against the petitioner thereunder.

The grievance of the petitioner principally is that, despite complaints being lodged by the petitioner as stated above, the jurisdictional police authority did not register an F.I.R. and did not proceed against the private respondents.

Considering the grievance of the petitioner and considering the materials on record this Court is of the view that the Writ Court is not the forum to take cognizance of such a writ petition where remedy is available under the provisions of the Criminal Procedure Code, 1973.

It is made clear that this Court has not gone into the merits of the claim of the petitioner in any manner whatsoever and the petitioner shall be free to exercise its legal recourses in accordance with law for seeking necessary direction upon the jurisdictional police authority.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

This writ petition being **W.P.A. 847 of 2023** stands dismissed with the above observations, without any order as to costs.

(ANIRUDDHA ROY, J.)