

Sl No. 08
27.02.2023.
SB-II
AGM

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

WPA 3405 of 2022

**Soumita Bhattacharjee (Biswas)
-versus
The State of West Bengal & Ors.**

Mr. Debjit Kundu,
... For the petitioner.
Mr. Hirak Barman,
Mr. Momenur Rahaman, ... for the State.

Mr. Prasenjit Paul,
Ms. Bedashruti Bose,
Mr. Subham Chanda,
... for the respondent No. 5 and 6.

Affidavit-of-service filed in Court today be retained with the records.

The petitioner alleges police inaction.

Learned advocate for the petitioner submits that his client is the owner of a piece and parcel of land by way of purchase in the year 2012. Till 2019 the petitioner enjoyed the land as per her own wish and desire. In early 2020, the private respondent tried to forcefully dispossess the petitioner from the said land. A civil suit has been filed by the petitioner and the same is pending consideration before the learned Civil Judge (Junior Division), Second Court, Jalpaiguri being Title suit No. 51 of 2020.

The learned Court below passed an interim order restraining the private respondent herein from disturbing the peaceful possession of the plaintiff, the petitioner herein.

The petitioner complains that despite order passed by the learned Civil Court, the private respondents are still trying to take forceful possession of the land.

Learned advocate representing the private respondent denies the allegation of the petitioner.

It has been submitted that there has been gross suppression of material facts.

An application for alleged violation of the order of injunction is pending consideration before the learned Civil Judge. The petitioner has filed the present writ petition to abuse the process of law.

It has further been submitted that the private respondents are the lawful owners and they possess the land in question by way of inheritance. The petitioner is trying to encroach upon the land on the private respondents.

Learned advocate representing the State respondent submits, upon the instruction that, First Information Report has been lodged over the dispute in between the parties being Malbazar P.S. Case No. 268 of 2022.

The instruction provided by the Inspection-in-Charge, Malbazar Police Station on 31st December, 2022 mentions that during investigation it revealed that both the parties, that is the petitioner as well as the private respondents, are dangerous and desperate in nature. Steps have been taken under Section 107 Cr.P.C. against both the parties.

It appears from the submissions made on behalf of the parties that the dispute revolves around possession of the land by private parties. Both the parties claim to be the owners of the land. A Title Suit is pending consideration before the learned Court below.

As the ownership and possession of the land is disputed by both the parties, it will not be proper for the writ Court to enter and decide the issue.

The parties will be at liberty to approach the proper forum for relief.

At present, the police is directed to ensure that both the parties maintain law and order and there is no breach of the same.

The writ petition stands disposed of.

Instructions given by the Inspector-in-Charge, Malbazar Police Station be retained with the records.

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

(Amrita Sinha, J.)