

Item No.24
22.11.2023
Court. No. 2`
GB

*CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE JURISDICTION*

W.P.A. 2520 of 2023

Majjamel Haque & Ors.
VS
The State of West Bengal & Ors.

*Mr. Indadul Biswas,
Mr. Debjit Kundu*

...for the Petitioners.

*Mr. Subir Kumar Saha,
Ms. Bedashruti Bose*

...for the State.

Mr. Arijit Ghosh

...for the respondent No.5

The writ petition has been filed challenging overt act of the police authorities.

According to Mr. Kundu, learned Advocate for the petitioners, during the subsistence of an interim order of status quo with regard to the land in respect of which a partition suit is pending, the police authorities had gone to the site and disturbed the petitioners.

Mr. Ghosh, learned Advocate for the respondent no.5 submits that the respondent no.5 is a co-sharer. The petitioners were disturbing the co-sharer's right to remain in the property although both the parties have a right to occupy the said property in question. The interim order of status quo was issued upon both the parties.

The police report is taken on record. It appears that the respondent no.5 had complained before the

police authorities that the petitioners were violating the interim order of status quo passed in Partition Suit No.33 of 2023. The police authorities went to the site to make an enquiry as they had been informed that there was a possibility of breach of peace. A non-cognizable prosecution under Section 107 of the Code of Criminal Procedure vide prosecution report no.749 of 2023 was submitted, directing both the parties to maintain peace and tranquility. The police authorities found that the parties were quarrelling amongst themselves and there was every chance of breach of peace.

Having considered the police report and the facts, this Court is of the view that the dispute between the parties is civil in nature and if there is any violation of the order of status quo, the party complaining of such violation is entitled to bring the same to the notice of the learned civil judge before whom the suit is pending. However, the police authorities were entitled under the law to ensure that there is no breach of peace in the area, which they had already done.

Accordingly, the writ petition is disposed of without further orders.

However, there shall be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)