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29.01.2024
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Ct. 14

WPA 1589 of 2024

Arunabha Maity

-vs-

The State of West Bengal & ors.

Mr. Gouranga Kr. Das

...for the petitioner

Mr. Sambhu Nath Sarder

....for the respondent nos. 4 to 6

Mr. Rajarshi Basu

Mr. K. M. Hossain

...for the State

Affidavit of service filed on behalf of the petitioner is taken on record.

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

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the owner of the land in question. The private respondents have been disturbing the possession and enjoyment of the property by the petitioner. This prompted the petitioner to file a civil suit by an order dated 09.01.2023 passed by the learned Civil Judge, Junior Division, Kakdwip, South 24 Parganas in Title Suit No. 06 of 2023. The defendants were restrained from disturbing the plaintiff's peaceful possession over the suit property. This order was extended from time to time. In spite of this, the private respondents went on violating the same and

disturbing the petitioner. This was brought to the notice of the police, but no action was taken.

Learned counsel appearing on behalf of the private respondents submits as follows. First, the land in question is not well-demarcated. Secondly, the petitioner had already filed another writ petition regarding the same property, but asking the respondent authorities to remove encroachment from PWD land. The private respondents have not committed any offence, far less disturbed the petitioner's possession of his own property or attacked his household. The private respondents have actually purchased a demarcated land and it is the petitioner who is trying to encroach upon the property.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. On the complaint of the petitioner, a proceeding has been initiated under Section 107 of the Code. Otherwise, the dispute is purely civil in nature. However, the police authorities are keeping a close watch on the developments in the locality.

It appears that a civil dispute exists between the private parties.

If any of the private parties wants to establish any further right in respect of the property, the same has to be done before a Civil Court.

However, if there are allegations of cognizable offences being committed by the private respondents, the police are duty bound to look into the same and take steps as required,

failing which the petitioner shall always be at liberty act in terms of the directions passed in Aleque Padamsee's Case, (2007) 6 SCC 171.

Therefore, no further order need be passed in this regard.

However, the police authorities shall keep a sharp vigil at the locale, ensure that no breach of peace takes place and see to it that no order of a Civil Court is violated.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)