

April 24, 2024
AD 1263
Ct. No.14
SG

WPA 1885 of 2024

Sujit Mondal and another
vs
The State of West Bengal and others

Mr. Sandipan Maity
... for the petitioners

Mr. Suman Ghosh
Mr. Siddhartha Ghosh
... for the State

Report filed by the State is taken on record.

Learned counsel appearing for the petitioners submits as follows. The petitioners are the co-sharers in a property. For the last 72 years the owners of the property have been enjoying the same without any hindrance from each other. However, after the death of the original owners, the private respondents have started disturbing the enjoyment of the property by the petitioners. They have blocked the common passage. The petitioners were constrained to move an application under Section 147 of the Code in this regard. After obtaining a police report, by an order dated 01.11.2023 passed by the learned Executive Magistrate, Ranaghat, Nadia in MP Case No.206 of 2023, the case was dropped with a direction to the opposite parties to open the encroachment of the previous passage which had been obstructing by the sons of Rishipada Mondal about two years ago. The parties were directed to maintain peace.

The police were approached to have the order executed, but they have not rendered any help.

Learned counsel appearing for the State relies on the report and submits as follows. There is a civil dispute pending between the private parties. There is a common passage which is alleged to have been blocked by constructing a room. There is also an alternative pathway. In the course of enquiry, it was learnt that a title suit is pending before the civil court in this regard. However, in order to maintain peace, a proceeding was initiated under Section 107 of the Code. In the event any demolition is to be undertaken, the pradhan of the panchayat may be approached along with the police authorities.

It appears that an order was passed under Section 147 of the Code directing removal of obstruction from the common pathway. There is no reason that such order should not be executed unless there is a stay obtained in any civil proceedings or granted by a superior court. It does not appear that any such order to the contrary exists in the instant case.

However, it is true that in the event any construction is to be demolished, the pradhan of the gram panchayat has to be kept in the loop.

Accordingly, the petitioner is granted permission to have the order passed under Section 147 of the Code executed in accordance with law. In addition to the police authorities, the petitioner shall also make a

representation before the concerned pradhan of the gram panchayat for taking necessary action.

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

However, the police 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 petitions are disposed of.

Parties shall act on a server copy of this order duly downloaded from the official website of this Court.

[Jay Sengupta, J.]