

S/L 9
09.02.2024
Court No.14
SD

WPA 2871 of 2024

Debabrata Roy
Vs.
The State of West Bengal & Ors.

Mr. Atis Kumar Biswas
Mr. Amit Singh
Mrs. Jyoti Agarwal

...for the Petitioner.

Mr. Biswabrata Basu
Ms. Parna Roy Chowdhury

...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 property in question. The private respondents are local miscreants who want to grab the petitioner's property. On some pretext of the other, they would try to trespass into the said property. Sometimes they would try to hold a fair and sometimes a puja. Last year before the Saraswati puja they tried to construct a pandal for the same. The petitioner approached the writ court. This prompted them to desist from the proceeding any further. This year they have again done the same thing. Despite filing of this writ petition, they are continuing with their illegal construction of pandal in order to hold puja. It is pertinent to mention that earlier by an order dated 11.4.2019 passed by the learned Civil Judge (Junior Division), 2nd Court, Krishnagar in T.S. No.308 of

2018, the private respondents were restrained from entering into the suit property and disturbing the peaceful possession of the plaintiff. Later on, to be on the safe side, the petitioner had prayed for a relief in the event somebody would claim to have dispossessed the petitioner. The same was not allowed by the civil court on the ground that the dispossession was not established. This only supports the petitioner's contention that he is the owner of the property and is in possession of the same.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. There are civil suits pending in respect of the property in question. The dispute is purely civil in nature. However, on the complaint of the petitioner, a proceeding has been initiated under Section 107 of the Code.

It appears that the petitioner is the owner of the property in question.

If any of the private parties wants to establish any further right in respect of the said property, the same has to be done before a civil court and not by use of brute force.

If anyone wants to hold puja on somebody else's land, it is quite obvious that the permission of the owner of the land has to be taken.

It appears that without taking any consent of the present petitioner, some local people are trying to hold a puja and some festivals on the petitioner's property.

In view of such peculiar circumstances, the police authorities shall keep a sharp vigil at the locale, ensure that

no breach of peace takes place and see to it that the civil court's order injuncting the private respondents from entering into the petitioner's property is not violated.

If any unauthorized structure has been put up on the petitioner's property without his consent, with due notice to the persons who had put up such structure, the police shall remove the structure from such property at the costs of those persons who had put up such structures.

With these observations, WPA 2871 of 2024 is disposed of.

Since the Court did not invite the parties to file affidavits, the allegations made are deemed not to have been admitted.

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

(Jay Sengupta, J.)