

S/L 11
09.02.2024
Court No.14
SD

WPA 3091 of 2024

Bomkesh Sett & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Sabyasachi Chatterjee
Mr. Sandipan Das
Mr. Imtiz Akhtar
Mr. Subhajit Saha
Mr. Badrul Karim
Mr. Kiron Sk.
Ms. Indrani Roy
Mr. Dipankar Das
Ms. Chaitali Bhattacharjee
Ms. Sunanda Chatterjee
Ms. Suparna Dutta

...for the Petitioners.

Mr. Wasim Ahmed
Sk. Md. Masud

...for the State.

Mr. Srijib Chakraborty
Mr. Tanmoy Mukherjee
Mr. Souvik Das
Mr. K.R. Ahmed
Mr. Rudranil Das

...for the Respondent Nos.8-12.

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 petitioners submits as follows. The petitioner nos.1 and 2 are the Directors of the company in question while the respondent no.8 is the other Director. The petitioner no.3 is the owner of the property where the very old grocery shop is situated. Differences cropped up between the Directors regarding running of the company. A proceeding became pending before the Company Law Board. The Company Law Board

directed the petitioners to permit the private respondents to visit the office in question on Monday and Friday. In violation of the same, the private respondents would often go there and create disturbance. This would be evident from the complaints lodged by the private respondents and others. The complaint dated 28.4.2015 concerns the alleged incident that took place not on a Monday or Friday when the private respondents purportedly visited the office. In the meantime, the petitioner no.3 was constrained to file a title suit. By an order dated 21.12.2023 passed by the learned Civil Judge (Junior Division), 3rd Court, Howrah, the defendants were restrained from disturbing peaceful possession and enjoyment of the suit property. In spite of this and in violation of the same, the private respondents have been disturbing the possession and enjoyment of the property by the petitioners. Police was approached, but no step was taken.

Learned counsel appearing on behalf of the private respondents denies the allegations made in the writ petition and submits as follows. The prime grievance of the petitioners relate to the alleged facts that there was no audit done to hide misappropriation of funds, petitioners were deprived of profit of business and that no rent was paid by the company to the landlord. These do not pertain to police inaction. Moreover, in the complaint dated 09.01.2024 it has been admitted by the petitioner no.2 that someone else was running the shop at the ground floor of the premises through a company of which he was also a Director.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. There is a long standing civil dispute pending between the private parties. There are proceedings pending before the Company Law Board as well as the Civil Court. However, criminal cases have also been started by either side and FIRs were registered and investigation conducted. Incidentally, on the complaint of the petitioner no.2, a specific case, *inter alia*, under Section 188 of the IPC was started on 08.01.2024.

It appears that civil and company disputes exist between the private parties.

If any of the parties wants to establish any further right in this respect, they have to do so before an appropriate forum and not by using of brute force.

In the event there is any breach of peace or commission of a cognizable offence, the police shall take prompt steps.

In fact, it appears that on the complaints from either of the parties, police have taken steps and registered FIRs. In fact, on the basis of a complaint filed by the petitioner no.2, an FIR as being Howrah PS Case No.6 dated 08.01.2024 was started under Sections 188, 506, 509 of the IPC.

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 the civil court's order is not violated.

With these observations, WPA 3091 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.)