

22.07.2024

Court No.35

Item No.28

Subha

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Appellate Side

W.P.A 5776 of 2020

Debdas Adhikary

Vs

State of West Bengal and ors.

Mr. Anil Kumar Chattopadhaya
...for the petitioner.

Mr. Srijan Nayek,
Ms. Rituparna Maitra.
...for the State respondents.

Mr. Suman Chakraborty
....for the respondent no.6.

Mr. Chattopadhaya, learned advocate for the petitioner prays for an accommodation. However, I have considered the prayers advanced in the writ petition.

Mr. Nayek, learned advocate appearing for the State has filed a report. Let it be kept with the record.

Mr. Chakraborty, learned advocate appears on behalf of the respondent no.6.

The issue relates to a dispute wherein the petitioner claims to have paid whole of the money. On the other hand, respondent no.6 claims to have received substantial part of the money. As such, vehicle has not been transferred.

The issue revolves around the possession of the vehicle concerned. To that effect petitioner has complained to the Officer-in-Charge, Belda PS, Paschim Medinipur for recovery and/or handing over

of the vehicle being WB-33C-2176. In spite of such representation being made on 19-06-2020, the petitioner is aggrieved that till date the vehicle has not been recovered.

State has submitted a report wherein an enquiry was conducted by the Officer-in-Charge, Belda PS.

On an overall assessment of the facts of the present case, I am of the considered opinion that this will not enter into the domain of either the civil court or the criminal court. Petitioner would take out an appropriate application under the relevant provisions of the Code of Criminal Procedure before the jurisdictional Magistrate and also pray for recovery of the vehicle along with the complaint proposed to be filed, if any. It would be for the learned Magistrate to enter into the merits of the case and decide the same in accordance with law both relating to the subject matter of issuing of process as also any other application made for recovery of the said vehicle.

Needless to state that this court has not entered into the merits of the case, but has relegated the authority to the learned jurisdictional Magistrate who is the appropriate authority to consider the dispute.

With the aforesaid observations, the writ petition being WPA 5776 of 2020 is disposed of.

Connected applications, if any, are consequently disposed of.

All parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

(Tirthankar Ghosh, J.)