

07 01.05.2024
NB Ct. 14

WPA 10014 of 2024

Soumitra Kumar Raj @ Soumitra Raj
Vs.
The State of West Bengal & Ors.

Ms. Aiswarjya Gupta,
Ms. Priyanka Saha.
...for the petitioner.

Mr. Ansar Mandal Id.AGP.,
Ms. Somasree Dey.
...for the State.

Mr. Arunava Maiti.
...for the respondent nos.7to10.

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 being Dag no.79. The private respondents are neighbours and other co-villagers who are disturbing the petitioner's possession and enjoyment of the property and are trying to encroach upon the same. They have filed a civil suit and a proceeding under Section 144 of the Code and have obtained orders. But, there the scheduled property does not include Dag No.79. Upon the petitioner's application, conversion of the land has already been done. A temporary structure has been prepared by the petitioner. Now the petitioner is unable to protect the structure without the help of

the police because of illegal activities done by the private respondents. Some portion of the construction has, in fact, been demolished.

Learned counsel appearing on behalf of the private respondents denies the allegations and submits as follows. An amendment petition has already been filed in the civil suit for incorporating Dag No.79 in the schedule. There is a common pathway, which allows the petitioner to approach the main road and it passes through/by the side of Dag No.79, 75 and the like. The petitioner is trying to encroach upon the eight feet common pathway. This has led to the disputes between the private parties.

Learned counsel appearing on behalf of the State relies on the report and submits that the dispute is purely civil in nature. The police have already filed a report in the proceeding under Section 144 of the Code and they are keeping a close watch on the developments in the locality.

It appears that there is a civil dispute pending between the private parties. If any of the parties wants to establish any further right in respect of the property, the same has to be done before a civil Court and not by exercise of brute force.

The petitioner shall be at liberty to pray for a sanctioned plan for construction on his converted land.

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.

As affidavits were not called for, allegations contained in the writ petition are deemed not to have been admitted.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)