

12 23.04.2024
NB Ct. 14

WPA 10423 of 2024

Arindam Ghosh
Vs.
The State of West Bengal & Ors.

Mr. Tarun Jyoti Tewari,
Mr. Amrit Sinha,
Ms. Kausiki Bose.
...for the petitioner.

Mr. Santanu Kr. Mitra Id. SGA.,
Mr. Amartya Pal.
...for the State.

Mr. Anirban Pramanick.
...for the respondent no.4.

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.

Copy of the same be handed over to the learned counsels for the other side.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner had purchased a portion of the property in question. The private respondent also claims to be the owner of the property. A civil proceeding is pending in this regard. By an order dated 25.04.2013 passed by this Court, the Municipality was directed to consider an application of the petitioner whether to grant water supply to the premises or not. Pursuant to this, water supply and electricity connections were provided. There is a need to repair certain portions regarding such facilities. The private respondents are preventing the petitioner from doing so. The police were approached, but they rendered no help.

Learned counsel appearing on behalf of the private respondent denies the allegations and submits as follows. The private respondents are the actual owners of the property. The petitioner used to be the tenant. There was a suit filed by the private respondents and it was decreed in their favour. The matter went up to the Hon'ble Apex Court. Now, the execution proceeding is pending which the petitioner is trying to thwart.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. The matter is purely civil in nature. Still, over the complaint of the petitioner, a proceeding was initiated under Section 107 of the Code.

It appears that an execution proceeding is pending against the petitioner. Till the execution is attempted, the petitioner cannot be deprived of water or electricity. If he wants to repair the facilities providing electricity and water supply, he shall be at liberty to do so. In the event, any hindrance is caused, he shall be at liberty to seek help from the local police who shall then stand guard so that the repair works are done. The cost, if any, will be borne by the petitioner.

However, this shall not preclude the private respondents from having the decree executed.

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.)

