

M/L 19
05.02.2024
Court No.14
SD

WPA 10882 of 2023

Shri Kamal Pradhan
Vs.
The State of West Bengal & Ors.

Mr. Bhudeb Chatterjee

...for the Petitioner.

Mr. Amitesh Banerjee

Mr. Suddhadev Adak

...for the State.

Affidavit of service filed on behalf of the petitioner is taken on record.

Despite service no one appears on behalf of the private respondents.

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 were disputing and disturbing the petitioner's possession and enjoyment of the property in question. The petitioner was constrained to approach this Court. By an order dated 21.6.2013 passed in W.P. 16981 (W) of 2013, a coordinate Bench of this Court disposed of the writ petition by directing the police to ensure that no harm was caused to the petitioner and to allow the petitioner to make the necessary construction. The construction plan had been approved by the Contai Municipality, but the private respondents were preventing the petitioner from making such construction. Thereafter, by an order dated 12.4.2016 passed by a

coordinate Bench in W.P. 28687 (W) of 2014, this Court directed the Superintendent of Police, Contain to identify the alleged squatters in the land and effect their removal. However, at the instance of the private respondents, by an order dated 22.6.2016, the Appellate Court held that it was not possible to identify the squatters and instead granted liberty to the petitioner to approach the civil court. Accordingly, the petitioner approached the civil court. By an order dated 10.02.2020 passed in T.S. 60 of 2017, the learned Civil Judge (Junior Division), 1st Court, Contain decreed the suit ex parte against the defendants. It was declared that the plaintiff/petitioner had the right, title and interest over the scheduled property and the defendants leave permanently restrained from causing any obstruction in the peaceful possession of the plaintiff over the said property. He was allowed to complete the construction of his house. However, the private respondents are disturbing the petitioner again and preventing him to put the boundary wall to protect his property. The police were approached for providing a picket upon deposition of costs, but they have not taken any steps in this regard.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. It is true that learned civil court decreed the suit in favour of the petitioner ex parte against the defendants. On physical verification, however, it was observed that only one trampoline shaded dilapidated structure of one Smt. Asha Singha (respondent no.1) remained present on the petitioner's land.

It appears that the petitioner obtained a decree in a civil suit as against the private respondents in respect of the property in question. Although he could build his house, the private respondents are preventing him from putting a boundary wall to protect his land.

The physical verification by the police does not identify any other squatter.

From the report of the police, it further appears that the only obstruction that remains in the land is a dilapidated structure kept there by the respondent no.1 against whom already a decree had been passed.

As there is already a decree in civil suit passed in favour of the petitioner in respect of the land and the petitioner has been able to construct the house on the same, there should be no impediment upon him to construct the boundary wall to safeguard the same.

If any other private party wants to establish any further right in respect of the said property, the same has to be done before a civil court.

Therefore, upon deposition of necessary costs by the petitioner, the police shall stand guard when the petitioner would be constructing his boundary wall on his land.

Even otherwise, 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, WPA 10882 of 2023 is disposed of.

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

(Jay Sengupta, J.)