

19 30.01.2024
NB Ct. 14

WPA 11508 of 2023

Satyen Roy
Vs.
The State of West Bengal & Ors.

Mr. Sukumar Ghosh,
Ms. Moumita Ghosh.
..for the petitioner.

Sk. Md. Galib. Ld. Sr. Govt. Adv.
...for the State.

Mr. Shuvanil Chakraborty
...for the respondent nos.5&6.

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

Reports filed on behalf of the State are also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is a co-sharer of the property in question. After the death of his father, he along with other co-sharers started to own and possess the property. In fact, there was a mutual settlement arrived at between the private parties. However, after some time, the private respondents started to make an illegal construction in the said property without the consent of the petitioner. Since the petitioner objected, he was harassed and intimidated and thereafter, driven out of the said property. In fact, he was ousted from the said property on 18.09.2019. Complaints were made before the police authorities, but no steps were taken.

Learned counsel appearing on behalf of the private respondents denies the allegations and submits as follows. The purported settlement was arrived at between the private parties on a misconception of facts. It was subsequently realised that the erstwhile owner of the property had executed a will excluding the present petitioner from any bequest. The private respondents are going to apply for probate for the same.

Learned counsel appearing on behalf of the State relies on the report and submits that in the proceeding instituted by the petitioner under Section 144 of the Code, a report has already been filed. He submits that a civil dispute exists between the private parties.

It appears that a civil dispute exists between the private parties. While the petitioner claims rights by inheritance and through a memorandum of settlement, the private respondents attempt to rely on a will for which a probate has not been taken yet.

However, it is also an admitted position that the petitioner lost possession on 18.09.2019. Since then, he has not been taken any steps for getting back possession of the property. Neither was a civil suit filed nor was a proceeding initiated under Section 145 of the Code.

Therefore, no further order need be passed in this regard.

However, the petitioner shall be at liberty to file an appropriate application before a civil Court in accordance with law.

In the meantime, the police authorities shall keep a sharp vigil at the locale and ensure that no breach of peace takes place.

With these observations, the writ petition is disposed of.

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

(Jay Sengupta, J.)