

M/L 21
05.02.2024
Court No.14
SD

WPA 11882 of 2023

Gopal Mondal & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Samiran Mandal
Mr. Abhinaba Dan
Ms. Ankita Mukherjee

...for the Petitioners.

Mr. Ansar Mandal
Mr. Asish Dutta

...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 petitioners are the owners of the property in question. Their names have been recorded in the records of right. For last few years, the private respondents have been disturbing the petitioners' possession and enjoyment of the property. They had been trying to prevent the petitioners from constructing boundary wall. They want to level a portion of the ground and use it as a playground. This was brought to the notice of the police authority, but no steps were taken.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. Enquiry reveals that the local persons obstructed the petitioners from

constructing a boundary wall and measuring the land belonging to them. The fact was diarized and a proceeding was initiated under Section 107 of the Code. It appears that for the last 2-3 years some local youth have been using the particular area to play football and even organized football tournaments twice on that field.

If the land belongs to the petitioners and their names are recorded in the records of right, merely by playing football on the ground for a couple of years or by holding a tournament on the same in two successive years, the private respondents or local persons indulging in the same do not acquire any interest over the property.

In any event, if any of the parties wants to establish any further right in respect of the said property, the same has to be done before a civil court.

If otherwise not prevented in accordance with law, the petitioners would have absolute right to protect their land by measuring it and building a boundary wall on it.

It appears that the police have taken some steps by diarising the complaint of the petitioners and instituting a proceeding under Section 107 of the Code of Criminal Procedure. However, the police needs to do more in the event the petitioners are prevented from exercising their rights as per law.

Therefore, 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.

In the event the petitioners seek police help for measuring or putting a boundary wall in the property, they shall consider such prayer expeditiously and in accordance with law.

In the event any untoward incident occurs or is apprehended by the petitioner, the petitioner shall be at liberty to call up the Inspector-in-Charge of the local police station who shall then act in accordance with law.

With these observations, WPA 11882 of 2023 is disposed of.

Parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Jay Sengupta, J.)