

05 29.01.2024
NB Ct. 14

WPA 11887 of 2023

Biswanath Pal
Vs.
The State of West Bengal & Ors.

Mr. Keshab Chandra Das,
Ms. Aparajita Mondal,
Mr. Biplab Adak.
...for the petitioner.

Sk. Md. Galib Id. Sr. Govt. Adv.,
Ms. Jyotsna Roy Mukherjee.
...for the State.

Mr. Lal Ratan Mondal,
Mr. Dilip Kr. Sadhu.
...for the respondent nos.5&6.

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 had purchased a property and wanted to make a construction on the same. He obtained permission from the local Panchayat and started construction on 16.03.2023. But the private respondents forcibly prevented the petitioner from doing so and have since been disturbing the peaceful and enjoyment of such property by the petitioner. The petitioner approached the learned Executive Magistrate with an application under Section 144 of the Code. A favourable order was passed directing the Officer-in-Charge to enquire whether the petitioner was in possession of the property in which event the private respondents would be restrained from disturbing the petitioner.

Learned counsel appearing on behalf of the private respondents denies the allegations and submits as follows. The private respondents have never disturbing the possession of the petitioner or preventing them from constructing any boundary wall or anything within their property. In fact, the petitioner has been trying to encroach upon the private respondent's property.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. The police have acted on the allegations made by the petitioner by instituting a proceeding under Section 107 of the Code of Criminal Procedure. Otherwise, the dispute is purely civil in nature.

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.

If the petitioner has obtained permission for making a particular construction from the sanctioning authority being the Panchayat, he shall be at liberty to carry on the same strictly according to the plan.

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

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 Court is violated.

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.)

