

Court No. 22

15.01.2024

(Item No. 58)

(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 12716 of 2023

Smt. Papiya Mishra & Anr.

VS

The State of West Bengal & Ors.

Mr. Noni Gopal Chakraborty

..... for the petitioners

Mr. Lalit Mohan Mahato

Mr. Rudranil De

.... For the State

Mr. Udaynarayan Betal

.... For respondent No. 6

This is an assigned writ petition.

Affidavit of service filed in Court today is taken on record.

On the prayer of Mr. Noni Gopal Chakraborty, learned advocate appearing for the petitioners, leave is granted to file supplementary affidavit on behalf of the petitioner to disclose certain subsequent developments in this matter, as submitted before this Court. Supplementary affidavit affirmed on January 8, 2024 filed today in Court is taken on record. Copies of the supplementary affidavit has been served today in Court upon Mr. Udaynarayan Betal, learned advocate appearing for respondent No. 6 and Mr. Rudranil De, learned advocate appearing for respondent Nos. 1 to 5.

The petitioners claimed to be the owner of a piece and parcel of a land as mentioned in **prayer B** to the writ petition. The petitioners had purchased the

land from the predecessors of the private respondent No. 6. The petitioners claim that private respondents are in attempt of encroaching the petitioners land and disturbing their right of cultivation, egress and ingress on the land.

Drawing attention to a police complaint dated **April 26, 2023, Annexure P-4 at page 54** to the writ petition Mr. Nonigopal Chakraborty, learned counsel for the petitioners submits that, though the necessary complaint was lodged before the Jurisdictional Police Station, the jurisdictional Police authority failed and neglected to take any steps in the matter. The petitioners also requested the Police authority to post Police guards at the land of the petitioners upon payment of usual charges but the Police authority did not do so. Hence this writ petition seeking necessary direction for protection of the land of the petitioners by the Police authority.

Mr. Udaynarayan Betal, learned counsel appears for respondent No. 6. He contends that, the property was never sold to the petitioners. By practicing fraud, the petitioners sought to have transferred the land in their favour. The respondent No. 6 contends that, he is in possession of the land and is staying there with his family. The respondent No. 6 has also lodged a Police complaint dated

January 11, 2024 before the Jurisdictional Police authority and the Superintendent of Police.

Mr. Rudranil De, learned State counsel appearing for respondent Nos. 1 to 5 submits that, the jurisdictional Police Station has already lodged an F.I.R. bearing **F.I.R. No. 26/76/23** in connection with **Daspur P.S. Case No. 76/23** dated **February 6, 2023**. He submits that, the respondent No. 6 was arrested and thereafter was enlarged on bail.

After considering the rival contentions of the parties and upon perusal of the materials on record at the threshold, it appears to this Court that, this is purely a civil dispute between the two groups of rival owners of a particular immovable property and the parties submit that none of the rival owners have approached the Jurisdictional Civil Court as yet.

It appears that, the Jurisdictional Police authority has already acted upon the complaint lodged by the petitioners by registering the First Information Report and by submitting the necessary charge sheet before the Jurisdictional Criminal Court. Therefore, the complaint lodged by the petitioners is proceeding towards its logical conclusion in due process of law.

Since the issue is already travelled before the Jurisdictional Criminal Court, this Writ Court shall not usurp its jurisdiction. The petitioners shall be at

liberty to pray for necessary relief before the Jurisdictional Criminal Court strictly in accordance with law.

However, the Jurisdictional Police authority shall also expedite the matter and take all necessary steps strictly in accordance with law.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

It is made clear that, the Jurisdictional Criminal Court shall proceed with the trial as expeditiously as possible without being influenced by any observation, if, made by this Court.

With the above observations this writ petition being **W.P.A. 12716 of 2023** stands **disposed of**, without any order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)