

May 21, 2024
AD 23
Ct. No.14
SG

WPA 13751 of 2024

Smt. Krishna Karmakar and others
vs.
The State of West Bengal and others

Mr. Debasish Das
... for the petitioners

Mr. Manoj Malhotra
Mr. Manoj Kumar Mondal
... for the State

Mr. Akash Dutta
... for the private respondents

Report filed by the State is taken on record.

Learned counsel for the petitioners submits as follows. The land in question was settled in favour of the petitioners' father in 2015. As the heirs of the said patta-holders, the petitioners are staying at the property. A house has been constructed there. Suddenly, the private respondents, who happened to be the uncle and aunt of the petitioners, came with arms and started construction on the vacant portion of the property. The petitioners approached the learned Executive Magistrate and a favourable order was granted under Section 144(2) of Cr.P.C. restraining the opposite parties from disturbing the petitioners' peaceful possession over the said property. In spite of this and in violation of such order, the private respondents are creating disturbance in the area and are trying to grab the property.

Learned counsel for the private respondents denies the allegations and submits that his clients had not gone anywhere with any arms. The private respondents have already filed a civil suit in respect of the property.

Learned counsel for the State relies on the report and submits that on the complaint of the petitioners, a proceeding under Section 107 of the Code has been initiated. Enquiry report under Section 144(2) of the Code has also been filed before the learned Executive Magistrate. The police are keeping close watch on the developments in the locality.

The petitioners rely on a document granting patta in favour of the petitioners' father. They are also armed with an order passed by the learned Executive Magistrate under Section 144(2) of the Code.

However, no order of injunction has been granted as yet in favour of the private respondents in the civil suit that they claim to have filed.

If any of the parties wants to establish any further right in respect of the subject matter or the property, the same has to be done before a civil court.

As of now the private respondents have not been able to refer any sanction or authority of law by which they can undertake a construction in the said property. They shall scrupulously abide by the order passed by the learned Executive Magistrate under Section 144(2) of the Code till they are able to obtain any order to the contrary from the civil court.

It also appears that the police have acted on the complaint of the petitioners by initiating a proceeding under Section 107 of the Code.

Therefore, the police 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 any untoward incident occurs or is apprehended by the petitioners, the petitioners shall be at liberty to call up the officer-in-charge of local police Station who shall then act in accordance with law.

With these observations, the writ petition is disposed of.

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

[Jay Sengupta, J.]