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18.04.2024
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Ct 14

WPA 12922 of 2023

Hasem Ali Molla & another
-vs-
The State of W.B. & ors.

Mr. Parashar Baidya
Mr. Rajib Acharyya
Mr. Supriya Bhattacharjee

...for the petitioners

Mr. Shibaji Kumar Das
Mr. Dipendu Sarkar

...for the respondent nos. 5 & 6

Mr. Ansar Mondal
Mr. Ananda Farmania

...for the State

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

Report filed on behalf of the State is also taken on record.

Copy of an order dated 18.03.2016 passed by the learned Executive Magistrate in a proceeding under Section 147 of the Code initiated by the respondent nos. 5 and 6 is also taken on record.

Learned counsel appearing on behalf of the petitioners submits as follows. The police authorities have committed over action by unnecessary visiting the petitioners' premises and disturbing peace. Earlier in a suit filed by the petitioners, an order of injunction of status quo was granted

restraining all the parties from changing nature and character of the suit property. This does not require the police to visit the premises. Yet, they have been doing so at the behest of the other side.

Learned counsel appearing on behalf of the private respondents denies the allegations and submits as follows. The petitioners and the private respondents are the co-sharers in a property. The petitioners have been obstructing ingress and egress of the private respondents which compelled the petitioners to move an application under Section 147 of the Code. In 2016, the police authorities were directed to remove obstruction from the exit and entrance of the undivided property. The petitioners continued with such illegal activities by obstructing the private respondents to access their property. Accordingly, complaints have to be lodged at the police station.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. On the complaint of the private respondents, a specific FIR being Baruipur PS Case No. 319 dated 20.03.2023 was started under Sections 447, 341, 323, 506 and 34 of the Indian Penal Code. After completion of investigation, a charge sheet was submitted dated 30.04.2023 against the arrested accused. A proceeding had also been lodged under Section 107 of the Code of Criminal Procedure. The root cause for such dispute is a civil suit pending between the private parties, which is still pending.

It appears that a civil suit is pending between the private parties.

If any of the parties wants to establish any further right in respect of the same, it has to be done before the Civil Court and not by exercise of brute force.

There is an order of Civil Court only not to change the nature and character of the property. It appears that earlier in 2016, an order was passed against the petitioners to remove obstruction from the common property.

In view of these and after considering the reports of the State, it does not appear that police have committed any over action.

Let 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, without any order as to costs.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)