

May 22, 2024  
AD 3  
Ct. No.14  
SG

WPA 13405 of 2023

*Dhruba Prasad Barman*  
*vs*  
*The State of West Bengal and others*

Mr. Debajyoti Deb  
Ms. Somdyuti Parekh  
... for the petitioner

Mr. Malay Kumar Singh  
Mr. Bibekananda Tripathy  
... for the State

Mr. Kallol Bose  
Mr. Anindya Sundar Bose  
Mr. Ratul Deb Banerjee  
Mr. Subrata Mondal  
Ms. Paramita Mondal  
Ms. Priya Nayek  
Mr. Sk. Abdus Salam  
... for the respdt Nos.4, 5 & 6

Report filed by the petitioner is taken on record.

Learned counsel for the petitioner submits as follows. The petitioner purchased a shop-room from the father of the private respondents. It would appear from the deed that the staircase belongs to the petitioner. The vendor of the property committed suicide in 2020. After the private respondents had been trespassing in the roof top and doing some wrongful activities. From 2023, the private respondents started committing more illegal and immoral activities at the roof top. They are bringing illicit liquor and women for the purpose of engaging in

prostitution. This was brought to the notice of the police, but no steps were taken.

Learned counsel for the private respondents denies the allegations and submits as follows. The entire roof top of the building, apart from 837 sq. ft. which was purchased by the petitioner, is owned by his clients. Since there is no other means to access the said portion of the roof, one does have an easement right to go to the roof through the said staircase. However, it is clarified that the private respondents are not blocking the ingress and egress to the roof top or, for that matter, of the staircase.

Learned counsel for the State relies on the report filed earlier and submits as follows. The dispute pending between the private parties is purely civil in nature. However, the police had initiated a proceeding under Section 107 of the Code. Raids were held for finding out what goes on at the roof top. The allegations of illegal and immoral activities could not be substantiated.

It appears that the dispute between the private parties, so far as access to the roof top is concerned, is civil in nature. If there is no other means to access the roof except the staircase and a portion of the roof top still belongs to the private respondents, then they have to access the portion through the staircase regardless of the fact whether the staircase belongs to the petitioner or not. The private respondents do not have any right to

block the staircase or prevent the petitioner from accessing the roof top through the staircase. The same applies to the other side. However, all these issues can best be agitated before a civil court.

The police shall keep a sharp vigil at the locale and ensure that no breach of peace takes place and that no illegal or immoral activities takes place at the concerned roof top. For such purpose, the police shall keep a sharp vigil including surveillance through police patrol. The police shall also be at liberty to put up CCTV camera nearby so as to keep a better watch in the locality.

No further order need be passed in this regard.

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. ]**