

Item No.25

26.06.2024
Ct-14

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 15122 of 2024
Sm. Jayanti Dhara
v.

The State of West Bengal & Ors.

Mr. Sugata Shankar Roy
Ms. Chandrani Ganguly
... for the petitioner.

Mr. Vimal Kumar Shahi, Ld. AGP
Mr. Subhabrata Das
Mr. Nikhil Kumar Gupta
... for the State.

Mr. Sayan Sinha
Mr. Adil Naser
Mr. K. Roy
... for the respondent no. 4.

The petitioner apprehends threat to her live and property.

From the record of rights produced by the learned advocate representing the State respondents it appears that Khatian No. 381 in Dag No. 157, J.L. No. 1, Mouza-Shibpur Sheet-27 is recorded in the name of the petitioner.

The petitioner submits that she has purchased a separate plot of land contiguous to the plot that is recorded in her favour by way of a registered deed and the private respondent is pressurising the petitioner to sell off her land in his favour.

Complaint was lodged before the police but as no steps were taken, the present writ petition has been filed.

Learned advocate representing the private respondent denies the allegation of the petitioner.

It has been submitted that the private respondent is not at all interested with the land that is recorded in the name of the petitioner. A separate title suit has been filed by the private respondent against the illegal action of the petitioner in trying to grab his property. The title suit is pending consideration.

The title suit filed by the petitioner for protection of her property is also pending consideration before the learned Civil Court. The order of injunction passed by the learned Civil Judge has been placed before this Court.

It appears that the learned Court was pleased to pass order on November 5, 2022 in Title Suit No. 1535 of 2022 restraining the defendants and his men and agents from making any illegal construction over the six feet wide common passage and from changing the nature and character or causing any disturbance in the peaceful enjoyment and possession of the plaintiff in respect of the scheduled properties including the common passage as mentioned in the schedule. The order of injunction is subsisting till date.

The petitioner submits that the private respondent, defying the order of injunction, has constructed a wall just in front of her window. The private respondent has been alleged to be a member of the ruling dispensation and a retired IPS Officer. He is

the member of the Legislative Assembly and he is exercising his power and influence to grab the property of the petitioner.

The report of the police mentions that the complaint of the petitioner was enquired and the Investigating Officer found that the complaint of the petitioner is false and accordingly submitted the final report vide Chatterjeehat P.S. FRF No. 82/24 dated May 31, 2024.

The police have mentioned that a physical verification was conducted to enquire about the allegation made by the petitioner. During physical verification the police could not ascertain the measurement of the common passage as most of the land is now vacant and there is no demarcation from the Government authority.

Without proper identification of the land, the police ought not to have concluded that the complaint of the petitioner is false. The suit filed by the petitioner is pending consideration before the learned Civil Court.

The police, prior to conclusion of the enquiry in response to the complaint filed by the petitioner, could have taken steps for identification of the land and could have properly enquired as to whether the allegation of pressurising the petitioner to hand over possession is proper or not. The investigation does not appear to have been done in a proper manner.

The police is, accordingly, directed to conduct fresh investigation. If required, the assistance of the concerned Block Land & Land Reforms Officer may be taken for proper identification of the land of the petitioner.

The police shall ensure that no harm is caused to the life and property of the petitioner.

It will be open for the petitioner to approach the learned Civil Court in seisin of the matter for further relief, if so advised.

Since the writ petition is disposed of without calling for any affidavits, the allegations made against the private respondent are deemed not to have been admitted by him.

The writ petition stands disposed of.

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

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

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(Amrita Sinha, J.)