

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 30.07.2024

DELIVERED ON: 30.07.2024

CORAM:
THE HON'BLE MR. CHIEF JUSTICE T.S. SIVAGNAM
AND
THE HON'BLE MR. JUSTICE BIVAS PATTANAYAK

M. A. T. 1195 of 2024

Jogesh Chandra Saha & Anr.
Vs.
The State of West Bengal & Ors.

Appearance:-

Mr. Debasis Sur,
Mr. Anshuman Patrafor the Appellants.

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. This intra-Court appeal by the unsuccessful writ petitioners is directed against the order dated June 12, 2024, in WPA 21310 of 2010. In the said writ petition, the appellants sought for a direction upon the respondents/the police authorities to perform their duties as per the provisions of the Police Act, 1961, the Police Regulation of Bengal, 1943, Regulation 257 of the Police Act, 1961, and the Indian Penal Code to take proper action against the 5th respondent in the writ petition, namely, the private party Shyamal Kumar Dutta.

2. It is alleged by the appellants/writ petitioners that the private respondent is indulging in unlawful activities obstructing and interfering with the rights of the appellants/writ petitioners to carry on their business and committing acts of criminal trespass.
3. On the date, when the writ petition was heard i.e. June 12, 2024, none appeared for the appellants/writ petitioners and, therefore, the learned Judge proceeded to consider the matter on the available records and came to the conclusion that the matter is of civil nature. Prima facie, we agree with the finding recorded by the learned Single Bench as there appears to be certain disputes between the appellants and the private respondent. In any event, the writ petition was filed in the year 2010 and as of now, by lapse of time, situations could have changed.
4. Therefore, we dispose of this appeal by granting liberty to the appellants to approach the concerned police authorities by way of a fresh complaint in the event there is any cognizable offence committed by the private respondent and if such complaint is filed, the same shall be dealt with in accordance with law after notice to the 5th respondent and all concerned.
5. No costs.
6. Urgent Photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

I agree.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(BIVAS PATTANAYAK, J.)