

February 7, 2024
AD 5 & 6
Ct. No.14
SG

WPA 21268 of 2023
with
WPA 24291 of 2023

Sunidhi Developers Private Limited and another
vs.
Union of India and others

Mr. Arka Pratim Chowdhury
Ms. Shreya Chakraborty
Ms. Aishwarya Jayshree
... for the petitioners.

Mr. Suman Sengupta
Mr. Sanatan Panja
... for the State in WPA 21268 of 2023.

Mr. Amitesh Banerjee
Mr. Tarak Karan
... for the State in WPA 24291 of 2023.

Mr. Dipayan Kundu
Mr. Rai Chand Baid
... for the respondent Nos.10 & 11.

Mr. Ayan Bhattacharya
Mr. Biswajit Konar
Mr. A. Mahinder
... for the respondent No.9.

The writ petition being WPA 21268 of 2023 was filed praying for a direction upon the respondent authorities to take over the investigation of the case. The writ petition being WPA 24291 of 2023 was filed praying for a direction upon the respondent authorities to ensure that the private respondents do not hamper the day-to-day activities of the petitioners, so that no untoward incident takes place. As such, the two connected, matters are taken up together for hearing.

Report filed by the State in WPA 21268 of 2023 is taken on record.

Learned advocate for the petitioners in both the matters submits as follows. The petitioners were aggrieved with the order of Thika Controller on the basis of a deed of 1980. Being aggrieved, the petitioners filed an appeal against the said order before the appropriate authority. However, the deed appeared to be suspect. It appeared to have been executed in Jalpaiguri and the signature of the Additional District Judge appearing on the last page and the seal on other pages were doubtful. The petitioners made representation before the police authorities in this regard, but no steps were taken. In the opposition filed by the respondent Nos.10 and 11 in WPA 21268 of 2023, they relied on a tenancy agreement of 1985. This too goes against the tenor of the proceedings. The petitioners were never heard in the case started earlier in this regard although the petitioners were the victims.

Learned advocate for the private respondents in both the cases submits as follows. These are cases of suppression of materials. Earlier, the same petitioner company had authorised one Debajyoti Bhattacharya to lodge an FIR in this regard. The same was filed and investigated into. A final report was filed showing that no prima facie case was made out. The present application has been filed on the selfsame cause of action.

Learned advocate for the State in WPA 21268 of 2023 relies on the report and submits that no allegation has ever been received from the Thika Controller of Thika Tenancy.

Learned senior advocate of the State in WPA 24291 of 2023 submits that subsequently the respondent No.9 had filed an application under Section 156(3) of the Code with similar allegations and the police have already started an FIR on the same being Ultadanga PS Case No.136/23.

Learned advocate for the respondent No.9 in WPA 24291 of 2023 submits that there has been suppression of material facts inasmuch as the petitioners had earlier filed FIR through an agent, but the same was suppressed.

At this stage, learned advocate for the petitioners clarifies that the petitioners had engaged a company of said Debajyoti Bhattacharya for taking up the issues and not him as an individual. Yet, he had filed an FIR without proper instruction.

Even if the petitioners deny that an FIR was wrongly registered by the said Debajyoti Bhattacharya although the petitioners had engaged his company, inter alia, for doing the same, it is not in doubt that an FIR was registered on such allegations and it ended in a closure report. Undoubtedly, the petitioners are in the shoes of the victim. Therefore, they would also have a

right to file a protest petition, which they have not done till now.

In the interest of justice, the petitioners are permitted, as the victims, to file a protest petition in respect of the filing of the closure report pertaining to Ultadanga PS Case No.136/18, which, if filed, shall be considered in accordance with law.

With these observations, both the writ petitions are disposed of.

Urgent certified copies of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

[Jay Sengupta, J.]