

January 4, 2024
AD 21
Ct. No.14
SG

WPA 22925 of 2023

Bimal Ghosh
vs
The State of West Bengal and others

Mr. Sukanta Das
... for the petitioner

Mr. Suman Sengupta
Mr. Sambuddha Dutta
Mr. Sanatan Panja
... for the State.

Mr. Lal Ratan Mondal
Mr. Avik Kumar Das
... for the private respondents.

Exception filed in Court is taken on record.

Fresh report filed by the State is also taken on record. A copy of the same be handed over to learned advocate for the petitioner.

Learned advocate for the petitioner submits as follows. The petitioner was granted a decree by a civil court in respect of a piece of land. He approached the Executing Court for an order of execution. The police was directed to help in executing the order. Yet, no help was rendered. By an order dated 20.03.2023 passed by the learned Civil Judge, Junior Division, 3rd Court, Paschim Medinipur in Title Execution Case No.03 of 2021, the Officer-in-Charge, Kharagpur Local Police Station was directed to look after the matter and take necessary steps so that the decree of the court may not be violated by the judgment-debtors and nature and character of the

decretal property is not changed. In spite of these, the police have not rendered help to the petitioner in enjoying the property. The private respondents have been trying to disturb the possession and enjoyment of the property by the petitioner. On 18.11.2023 the petitioner sought police help for reaping his harvest, but the same was not granted. The police had asked the petitioner to come to the field to harvest the crop. On 27.11.2023 he went there accordingly. But, two police personnel came and prevented from harvesting the crops. Thereafter the private respondents came with weapons and looted away the crops. This is a violation of the order passed by the civil court and by this Court.

Learned advocate for the private respondents submits that his application for setting aside the ex parte decree is still pending.

Learned advocate for the State denies the allegation of police inaction, relies on report and submits as follows. A letter was required from the petitioner in advance so as to provide police assistance. Necessary assistance would be provided whenever the same is required. It appears that the private respondents had been cultivating the land for the last 40 years. However, the police authorities are obliged to comply with the order passed by the civil court.

It appears that the petitioner was granted a decree declaring that he was having possession of the disputed land. The same was passed ex parte and may

be under challenge. Thereafter, the Executing Court passed an order directing the police authorities to ensure that the decree is not violated.

First, there was no occasion for the police authorities to make a further inquiry about whether the private respondents had been cultivating the land for last few years.

Therefore, until the decree passed by the civil court is set aside, the police authorities are bound to act in terms of such decree and in terms of the subsequent order passed by the Executing Court.

In the event the petitioner requires further help, the police shall render all necessary assistance by deputing sufficient number of personnel in this regard.

The police shall keep a sharp vigil at the locale, ensure that no breach of peace takes place and to see that no order of a civil court is violated.

In the event the petitioner believes that a cognizable offence has already been committed by the private respondents, he shall be at liberty to approach the police with a letter of complaint and act in terms of ratio laid down in *Aleque Padamsee's case* reported at (2007) 6 SCC 171.

With these observations, the writ petition is disposed of without any costs.

As affidavits were not called for, the allegations made are deemed not to have been admitted.

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

[Jay Sengupta, J.]