

Sl. No.27
08.01.2024
Court no.14
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*IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE*

W.P.A. 24058 of 2023

*Haren Mondal @ Harendra Nath MOnDal
Vs.
The State of West Bengal and Ors.*

Mr. Sachit Talukdar
Mr. Tirtharaj Ghosal

.....for the petitioner.

Mr. Supratim Laha
Mr. Proshant Agarwal
Mr. Badal Singh

...for the respondent no. 8.

Mr Nikhilesh Mittal

...for the respondent nos. 5,6 & 7.

Mr. Somnath Gangului, Id. AGP
Ms. Sukla Seal

....for the State.

Affidavit of service filed by the petitioner be taken
on record.

Report submitted by the learned advocate for the
State be taken on record.

A copy of the order dated 09-08-2023 passed by
the Civil Judge(Junior Division), Bidhannagar in Title
Suit No. 274 of 2023, as filed on behalf of the
respondent no. 8, is also taken on record.

Learned counsel appearing on behalf of the
petitioner submits as follows. The petitioner was the
caretaker of the property for the erstwhile owner and

has been residing in the said property for the last 30 years. After the demise of the owner of the property, suddenly, the private respondents claiming to be their heirs and/or promoters came inside the property. They have posted two security personnel in front of the property who are creating disturbance. The petitioner approached the learned Magistrate under Section 144 of the Code and prayed for order not to disturb the possession of the petitioner. The petitioner also filed a civil suit, which is pending.

Learned advocate for the respondent nos.5, 6 and 7 submits as follows. The respondent nos. 5,6 are the present owners of the property. Their names have been mutated in the record of the Bidhanagar Municipal Corporation. They were bequeathed the property by the erstwhile owner.

Learned counsel appearing for the respondent no. 8 submits as follows. The respondent no. 8 is a contractor engaged by the other private respondents for developing the property. As is evident from the order dated 09-08-2023 passed by the civil court, no ad interim injunction was granted to the petitioner.

Learned counsel appearing for the State relies on the report and submits that proceedings have been initiated by the adverse sides under Section 144 of the Code. Otherwise, the matter is purely civil in nature. According to the decision of the Hon'ble Apex Court in

the case of A. Shammugam Vs. Ariya K.R.K.M. N. P Sangam delivered on 27-04-2012 in connection with Civil appeal Nos. 4012-4013 of 2012, it is observed “watchman, caretaker or a servant employed to look after the property can never acquire interest in the property irrespective of his long possession”.

It appears that a civil suit is pending between the private parties. If any of the parties wants to establish any further right in respect of the said property, the same has to be done before the civil court.

Therefore no further order need be passed in this regard. However, the police authorities shall keep a sharp vigil at the locale and ensure that no breach of peace takes place.

With the aforesaid observations, the writ petition being WPA 24058 of 2023 is disposed of.

All concerned parties are to act in terms of a copy of this order downloaded from the official website of this court.

(Jay Sengupta, J.)