

S/L 85
06.02.2024
Court No.14
SD

WPA 24611 of 2023

Sanuwar Ali Khan
Vs.
The State of West Bengal & Ors.

Md. Wasim Akram
Ms. Reshmi Khatun

...for the Petitioner.

Mr. Ansar Mandal
Mr. Asish Dutta

...for the State.

Mr. Prasanta Bishal

...for the Respondent Nos.5-8.

Report filed on behalf of the State is taken on record.

Copy of an order sheet of T.S. No.01 of 2019 pending before the learned Civil Judge (Junior Division) at Kakdwip, South 24 Parganas filed on behalf of the private respondents is also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the owner of the property in question which is situated at Dag No.29. The owner of the adjacent property being Dag No.28 with the help of local political goons took forcible possession of the petitioner's shop room on 24.8.2023. This was brought to the notice of the police authorities, but no action was taken.

Learned counsel appearing on behalf of the private respondents denies the allegations made in the writ petition and submits as follows. The private respondents are co-sharers in the property in question. There is a partition suit pending since long. By an order dated 08.12.2011 an interim order of status quo was granted upon both the sides. The

Advocate Commissioner's report, prepared upon inspection, would show that the private respondents were actually in possession of the property. It is the petitioner who is trying to mislead the Court by suppressing the fact that a partition suit is pending.

Learned counsel appearing on behalf of the State relies on the report and submits that a civil suit is pending between the private parties and an interim order of injunction exists on the land in dispute and the next date for hearing of the suit is on 15.3.2024. Enquiry reveals that the private respondent nos.5 to 8 were running a shop as "Khan Cyber Cafe" and over this issue, heated exchange of words took place between the petitioner and the private respondents. However, on the complaint of the petitioner, a proceeding has been initiated under Section 107 of the Code of Criminal Procedure.

It appears that a civil dispute is pending between the private parties. In fact, a partition suit is also pending.

If any of the parties wants to establish any further right in respect of the said property, the same has to be done before a civil court.

It also appears that the police have taken some steps on the complaint of the petitioner by instituting a proceeding under Section 107 of the Code.

Moreover, the petitioner has not disclosed about the pendency of the partition suit in the writ petition.

Therefore, no further order need be passed in this regard.

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

With these observations, WPA 24611 of 2023 is disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)