

59 24.01.2024
NB Ct. 14

WPA 24684 of 2023

Jahirul Islam Biswas @ Jahirul Islam
Vs.
The State of West Bengal & Ors.

Mr. Mrinal Kanti Ghosh.
...for the petitioner.

Mr. Suman Sengupta Sr.Govt. Adv.,
Mr. Sambuddha Dutta.
....for the State.

Affidavit of service filed on behalf of the petitioner is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the recorded owner in respect of the property in question. The private respondent no.4 filed a title suit and obtained an order of status quo against the defendant no.1. However, no such order was passed in respect of the petitioner who is the defendant no.34 of the said suit. Yet taking advantage of this order, the private respondent with the help of local police authorities are preventing the petitioner from doing any repair work in the premises.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. There are case and counter case lodged by the adverse sides. Charge sheets have been submitted in the same. Otherwise, the dispute is purely civil in nature. In fact, there is a civil suit pending in which the petitioner is also a defendant and can fairly pray for necessary relief. The complaint in question does not make out any

cognizable case. So there is no question of lodging an FIR on the same, as prayed for in the writ petition.

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

It appears that the police had already acted on the earlier complaints from both sides and had registered FIR, which ended in charge sheets.

However, the recent complaint made on behalf of the petitioner neither makes out a case for registering an FIR nor gives a cause of action for initiating a proceeding under Section 107 of the Code.

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, the writ petition is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)