

WPA 25003 of 2023

Raju Samanta

-vs-

The State of West Bengal & ors.

Mr. Sukumar Ghosh

Ms. Moumita Ghosh

...for the petitioner

Mr. D. Chakraborti

Mr. S. Saha

...for the respondent no.4

Mr. Ansar Mondal

Mr. Asish Dutta

...for the State

Affidavit of service and supplementary affidavit filed on behalf of the petitioner are taken on record.

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

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner was gifted the property in question by his father. The private respondent is his brother who is disturbing the possession and enjoyment of such property by the petitioner. He is trying to make an illegal construction and grab the said property. This was brought to the notice of the police, but no steps were taken. After copy of the writ petition was served on the private respondent, he became more violent and started torturing the petitioner. The petitioner had to be admitted in a hospital.

Learned counsel appearing on behalf of the private

respondent denies the allegations made in the writ petition and submits as follows. The private respondent has already challenged the deed of gift in a civil suit. The petitioner had moved a similar application before a Co-ordinate Bench of this Court having another determination. But, no favourable order was granted.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. There is a property dispute existing between the private parties. However, on the allegation of the petitioner, a proceeding has been initiated under Section 107 of the Code of Criminal Procedure.

It appears that by an order dated 05.09.2023 passed by a Co-ordinate Bench of this Court in WPA 6199 of 2023 taking another determination, liberty was granted to the petitioner to take steps before a competent Court for appropriate relief.

It appears that there is a property dispute between the private parties. Admittedly, no injunction has been granted in the civil suit filed by the private respondent.

Till a favourable order is obtained by the private respondent to any effect, he has no right either to block the egress and ingress to the petitioner's property or to encroach upon such land.

It also appears that the police have taken steps by initiating a proceeding under Section 107 of the Code.

Let the police authorities 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.

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

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

(Jay Sengupta, J.)