

56 18.01.2024
NB Ct. 14

WPA 25058 of 2023

Monirul Khan
Vs.
The State of West Bengal & Ors.

Mr. Koushik Roy.
...for the petitioner.

Mr. Suman Ghosh,
Mr. Siddhartha Ghosh.
...for the State.

Mr. Malay Bhattacharyya,
Mr. Subhrajyoti Ghosh.
...for the respondent no.5.

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

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the nephew of the private respondent. He has been staying in a room situated in the ancestral property of the parties. One day, he suddenly found that the private respondent had locked the said room where he had kept his important documents like Aadhaar card, birth certificate, gun license and books of his child. Despite request, the lock was not opened. It is germane to mention that a suit for partition is pending between the private parties over the said property.

Learned counsel appearing on behalf of the respondent no.5 denies the allegations made in the writ petition and submits as follows. The petitioner had installed a grinding machine taking advantage of the absence of the private respondent as he was working under the CRPF and posted

elsewhere. The civil Court had passed an order or injunction on 15.07.2020 that the petitioner shall not continue the act of grinding of the schedule property.

Learned counsel appearing on behalf of the State relies on the report and submits that the police had requested the petitioner that they would go to the said premises so that he could bring his articles, if any, in the presence of police. But he refused and said that he would do so only if the police helps him to take back possession of the property. On the complaint of the petitioner, a proceeding under Section 107 of the CrPC has been initiated.

It appears that a partition suit is pending between the private parties. 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 also appears that the police have acted on the complaint of the petitioner by instituting a proceeding under Section 107 of the Code. They had also reportedly offered to accompany the petitioner to the premises so that he could take back his belongings, if any, from the room in question.

The petitioner is granted liberty to respond to the offer of the police authorities afresh so that they can accompany him to the said room and have the lock opened for the limited purpose of the petitioner taking back the articles belonging to him, if any.

For such purpose, the petitioner shall give a 24 hours' written notice to the Officer-in-Charge of Sonamukhi Police Station.

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 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.)