

S/L 67
24.01.2024
Court No.14
SD

WPA 25089 of 2023

Biswanath Sharma & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Pradeep Pandey

...for the Petitioners.

Mr. Amitesh Banerjee

Mr. Suddhadev Adak

...for the State.

Mr. Subhash Chandra Basu

Mr. Kali Sankar Roy

...for the Respondent No.5.

Affidavit of service filed by the petitioners is taken on record.

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

Copy of the judgment and order dated 29.5.2023 passed by the learned Civil Judge (Junior Division), 1st Court, Chandernagore in T.S. No.151 of 2004 filed by the respondent no.5 is taken on record.

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioners are in possession of the land in question. They have valuable articles belonging to him at the same premises which need be protected. However, the petitioners' title suit was dismissed by learned Civil Court. They preferred an appeal which is pending. The private respondent has been disturbing the possession and peaceful enjoyment of the property by the petitioners. This prompted the petitioners to approach the Executive Magistrate under Section 144 of the Code. A favourable

order was passed but this is being violated and police is not taking any steps despite intimation. The private respondent is now trying to build a boundary wall surrounding the said land.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. There are case and counter-case between the private parties. The dispute is at best civil in nature. In fact, the petitioner's title suit has been dismissed and there is no order of stay granted by the appellate court. The order passed by the learned Magistrate says nothing, but asks the other side not to do any illegal act.

Learned counsel appearing on behalf of the respondent no.5 relies on the judgment and order passed by the Civil Court and submits as follows. The allegations made in the writ petition are denied. The civil suit filed by the petitioner has been dismissed and there is no stay order passed by the appellate court. The petitioners were only claiming a declaration on the basis of an alleged adverse possession.

It appears that the civil dispute exists between the private parties. The petitioners' civil suit has been dismissed and the appeal is pending. But, no interim order of stay has been granted.

If any of the private respondents wants to establish any further right in respect of the said land, the same has to be done before a Civil Court.

It further appears that police has acted on the basis of the complaints lodged by either of the sides.

Therefore, no further order need be passed.

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

With these observations, WPA 25089 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.)