

WPA 25224 of 2023

Babli Bibi & anr.
-vs-
The State of West Bengal & ors.

Mr. Surajit Basu
.....for the petitioners
Mr. Santanu Kr. Mitra
Mr. Amartya Pal
...for the State

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

It does not appear that all the private respondents could be served.

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

Copy of the report is handed over to the learned counsel for the petitioners.

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioners are the owners of the property in question. However, the private respondents have been disturbing their possession of the property and enjoyment of the same. Finally, they forcibly ousted the petitioners from their home. This is despite the fact that the learned Executive Magistrate had passed an order restraining the private respondents from dispossessing the

petitioners. Incidentally, this is a dispute between the brothers over an ancestral property.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. On the complaint of the petitioners, a specific FIR being Nowda PS Case No. 259 of 2022 dated 23.09.2022 had been registered. This ended in a charge sheet. However, in the second complaint, the allegation could not be substantiated. The dispute is otherwise civil in nature and the petitioner no.2 had filed a civil suit being Partition Suit case no. 357 of 2022 before the learned Civil Judge, (Sr. Division), Berhampore, Murshidabad. The next date of hearing is on 31.07.2024.

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

If any of the private 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 taken steps on the complaints filed by the petitioners. An FIR was registered and charge sheet filed.

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 be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)