

05.12.2024

BP/AGM
MI. 248
Court No. 35

WPA 26749 of 2024

**Upendra Nath Sarkar & Anr.
Vs.
The State of West Bengal and Ors.**

Mr. Mohan Kumar Sanyal.
Mr. Dwaipayan Sanyal.
Mr. Arunesh Pathak.
... For the petitioners.

Mr. Swapan Banerjee. A.G.P.
Mr. Barun Chatterjee.
... For the State.

Ms. Manali Biswas.
Mr. Mrinal Saha.
Mr. Pritam Banerjee.
... For the private respondent Nos 5 to 15.

Petitioners complain that the private respondents are not only attacking the property but also assaulting the family members. It has also been complained that the private respondents in a group are taking away the trees, attempting to encroach the property.

Learned advocate appearing on behalf of the private respondents disputes and denies the submissions of the petitioners and submits that the property is undemarcated and civil suit is pending between the parties.

Report has been submitted by the State. Report reflects pursuant to the information furnished on 24th October, 2024 by the petitioner no. 1, police authorities have already drawn up proceedings under Section 163 BNSS.

Primarily the dispute between the petitioners and the private respondents is a civil dispute, however, as the petitioners claim that there is force exerted by the private

respondents and there are removal of trees from the suit property, which is referred to as the subject matter in the writ petition, I direct that in case the petitioners approach the jurisdictional Criminal Court under relevant provisions of Section 175 (3) /Section 223 of the BNSS, the learned Magistrate will exercise his discretion and pass appropriate orders as it deems fit and proper.

In the meantime, police authorities would continue to keep a strict vigil and ensure that that no breach of peace takes place.

Report submitted by the Officer-in-charge, Jalangi PS, Murshidabad PD is kept with the records.

With the above observations, WPA 26749 of 2024 is disposed of.

There shall be no order as to costs.

All concerned parties shall act on the server copy of this order duly downloaded from the official website of this court.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Tirthankar Ghosh, J.)

