

WPA 25739 of 2023

Dippaman Samanta

-vs-

The State of West Bengal & ors.

Mr. Amarta Ghose
Mr. Prasun Ghosh
Mr. Siddhartha Paul
Mr. Souryadeep Ghosh

...for the petitioner

Mr. Anirban Roy
Mr. Sk. Md. Galib
Mr. Safik Dewan

...for the State

Mr. Sankar Paul
Mr. Imtiaz Ahamad
Mr. Goutam Malik

...for the respondent nos. 5 to 12

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

Copy of the same is handed over to the learned
counsel for the petitioner.

Learned counsel appearing on behalf of the petitioner
submits as follows. The petitioner is the sole Shebait of Sree
Sree Madan Mohan Jew Thakur, a Hindu Deity permanently
settled in its sole and exclusive immovable property situated
at KMC premises no. 248 Raja Ram Mohan Roy Road,
Kolkata- 700 003. The private respondents are a local club
and their members had been trying to grab the property and
disturb the peaceful possession and enjoyment of the
property by the Deity for quite some time. Without taking

any permission from the petitioner, the local club has been holding Durga Puja for the last couple of years. In the last year also the petitioner apprehended that they would break the padlock of the main gate and hold such Durga Puja. This was intimated to the police, but no action was taken. The petitioner has filed a civil suit where an interim order of injunction of status quo was granted. The private respondent no.9 has also filed a civil suit. The private respondents have been continuously violating the Civil Court's order.

Learned counsel appearing on behalf of the private respondent nos. 5 to 12 submits as follows. The allegations made in the writ petition are denied. It is actually a government land that was settled in favour of the predecessor-in-interest of the respondent no.9. The respondent no.9 has filed a civil suit, which is pending. The order of status quo does not preclude the private respondents from holding Durga Puja every year which have been carried on at least for the last 25 years.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. Two other suits are pending between the private parties, one filed by the petitioner and the other by the respondent no.9. An order of status quo is also there. Afterwards the petitioner filed as many four applications under Section 144 of the Code. However, inquiry revealed that the private respondents have been conducting the Durga Puja at the said premises for the last 53 years. In fact, there is an order passed by a Co-

ordinate Bench of this Court in WPA 8772 of 2020 allowing the private respondents to hold Durga Puja at the said premises even without obtaining permission from the police. Regarding the allegation of breaking padlock, inquiry revealed nothing substantial.

At this stage, learned counsel appearing on behalf of the petitioner dismissed the contention of the learned counsel for the State that nothing substantial was found upon inquiry into the allegations of breaking of padlock.

It appears that civil suits are pending between the private parties in respect of the property in question.

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 order of status quo does not preclude the holding of Durga Puja by the private respondents at the said premises as had been decided by a Co-ordinate Bench of this Court earlier in WPA 8772 of 2020.

It does not appear that the police had any occasion to explore the possibility of initiating any proceeding under Section 107 of the Code. They would be at liberty to do so, if such a complaint is filed by any of the parties.

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.)