

99 05.02.2024
NB Ct. 14

WPA 26058 of 2023

Md. Jalaluddin
Vs.
The State of West Bengal & Ors.

Md. Kutubuddin.
..for the petitioner.

Mr. Suman Sengupta Id.Sr.Govt.Adv.,
Mr. Dwaipayan Basu Mallick.
...for the State.

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

Despite service, no one appears on behalf of the private respondents.

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

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the recorded owner of the land in question. Earlier, the father of the private respondents filed a title suit in respect of the land. The same was dismissed. Now, the petitioner is trying to build a boundary wall to protect his land, but the private respondents are objecting to the same. They had even assaulted the petitioner. The police was intimated, but no action was taken.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. As no cognizable case was made out, no FIR was registered. However, on the complaint of the petitioner, a proceeding has been initiated under Section 107 of the Code of Criminal Procedure. The

police are keeping a close watch on the developments in the locality.

It appears that a title suit was earlier decided in favour of the petitioner. Now, the petitioner is trying to build a boundary wall to protect his land.

If any of the parties wants to establish any further right in respect of the same, it has to be done before a civil Court and not by use of physical force. Without the due process of law, the enjoyment of property cannot be disturbed.

However, the police have also taken action on the complaint of the petitioner by initiating a proceeding under Section 107 of the Code.

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 contained in the writ petition are deemed not to have been admitted.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)