

09.02.2024
114
AN/Ct. No.14

WPA 26129 of 2023

**Asia Sk. @ Ashiya Sekh
versus
State of West Bengal & ors.**

Mr. Bratin Kumar Dey
Mr. Joydeep Das

... for the petitioner

Mr. Arindam Ghosh

... for the State

The report filed by the State is taken on record.

From the affidavit-of-service filed earlier, it appears that the private respondents could be served with notice. No one represents the private respondents despite service of notice.

Learned counsel appearing for the petitioner submits as follows. The petitioner is a co-sharer of the property in question. The private respondents are also co-sharers in the said property. However, they had been disturbing the possession and enjoyment of the petitioner's share of the property. This prompted the petitioner to move the Civil Court. By an order dated 31.03.2021 passed by the learned Civil Judge, (Sr. Divn.), Krishnanagar, Nadia an order of status quo was granted. Subsequently, on the prayer of the petitioner, police help was directed to be given to maintain such status quo. In spite of this and in violation of the Civil Court's order,

the petitioner is continuing to make illegal construction in the property in question. The police was intimated, but no step has been taken.

Learned counsel for the State submits as follows. On a complaint of the petitioner, proceedings had been initiated under Section 107 of the Code. Kotwali Police Station Case No. 894/2023 dated 20.09.2023 was also started under Sections 447/188/323/325/34 Indian Penal Code and a charge sheet was submitted vide Kotwali Police Station Charge Sheet No. 1018/2023 dated 30.09.2023 under Sections 447/188/323/34 Indian Penal Code. After intervention of the Police, the construction work has stopped in the property in question.

It appears that a partition suit is pending between the private parties. If any of the private parties wants to establish any further right in respect of the property, the same has to be done before the Civil Court.

It appears that the petitioner was granted an order of status quo by the Civil Court and in violation of the same, the private respondents were allegedly making a construction.

It also appears that Police have taken steps on the complaint of the petitioner by instituting proceedings under Section 107 of the Code and also registering the F.I.R. and thereafter filing charge sheet on the same.

The report submitted shows that after intervention by the Police Authorities, the illegal construction work has stopped.

Therefore, no further order need be passed in this regard.

However, the police shall keep sharp vigil at the locale, ensure that no breach of peace takes place and see to it that order of Civil Court is not violated.

With the above observations, the instant writ petition stands **disposed of**.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Jay Sengupta, J.)