

February 8, 2024
AD 110
Ct. No.14
SG

WPA 26154 of 2023

Swapan Naiya
vs
State of West Bengal and others

Mr. Apurba Krishna Das
Mr. Bapin Baidya
... for the petitioner

Ms. Sonal Sinha
Mr. Avishek Prasad
... for the State

Mr. Debabrata Sardar
... for the respondent Nos.5-9

Report filed by the State is taken on record.

Learned advocate for the petitioner submits as follows. The petitioner is the recorded bargadar of the piece of land in question since 1997. The private respondents are rank outsiders, having no right, title or interest in the property. However, they had been disturbing the possession and enjoyment of the property by the petitioner for quite sometime. This prompted the petitioner to approach the civil court. By an order dated 31.07.2023 passed by the Civil Judge, Junior Division, 3rd Court, Baruipur, South 24 Parganas in TS No.533 of 2023, the defendants were restrained not to disturb the peaceful possession of the plaintiff over the suit property and also not to change the nature and character of the suit property. Interim order was extended from time to time. The petitioner cultivated the land, but at the time of harvesting the crops the private respondents again

came and prevented them. The petitioner was constrained to approach the learned Magistrate under Section 144(2) of the Code. A direction was passed to render police help. After all these the private respondents filed an application under Section 144(2) of the Code in respect of another plot of land and got a favourable order. Showing this to the police they tried to mislead and have the crops on the land in question taken away. Complaint was made before the police, but no step was taken.

Learned advocate for the private respondents submits as follows. The allegations made in the petition are denied. The private respondents are bargadars of the land and have been in possession of the property since 1963. Wrong recording in the record of rights would be cured by the petitioner by an appropriate application.

Learned advocate for the State relies on the report and submits as follows. There is a title suit pending between the private parties over the suit property. On the complaint of the petitioner, a specific FIR being Joynagar PS Case No.500/23 dated 13.11.2023 was started under Sections 447/379/323/506 IPC. The police are keeping a close watch on the developments in the locality.

It appears that there is a civil suit pending between the private parties. The petitioner was granted an interim order directing the private respondents not to disturb the petitioner's possession in respect of the suit property.

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 is a statutory obligation to protect the rights of a bargadar subject to the bargadar paying relevant share of the crops to the landlord.

It also appears that the police have taken steps on the complaint of the petitioner by filing an FIR, which is being investigated.

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

However, the petitioner shall be at liberty to make an application for police help upon payment of cost for posting a police picket for harvesting the crops. If such an application is made, the same shall be decided promptly by the Inspector-in-Charge of Joynagar Police Station.

The police shall also 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 certified copies of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

[Jay Sengupta, J.]

