

February 6, 2024
AD 106
Ct. No.14
SG

WPA 26245 of 2023

Pradip Kumar Nayak
vs.
The State of West Bengal and others

Mr. Debasis Kar
... for the petitioner.

Mr. Biswabrata Basu Mallick
Mr. Ratul Biswas
... for the State.

Affidavit of service filed in Court is taken on record.

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

Report filed by the State is also taken on record.

Learned advocate for the petitioner submits that the petitioner runs a medicine shop as a tenant under the private respondents. For quite sometime the private respondents had been trying to evict the petitioner by unlawful means. They have been disturbing the possession and enjoyment of the property by the petitioner as a tenant. The petitioner was constrained to move the civil court. By an order dated 24.01.2023 passed by the Civil Judge, Junior Division, 2nd Court, Barrackpore in TS No.36/23, the defendants were restrained from disturbing the peaceful possession of the plaintiff in the said property. This order was extended from time to time. Despite this, the private respondents violated the order. This prompted the petitioner to

approach the Executive Magistrate under Section 144(2) of the Code. A favourable order was granted. In spite of this, the private respondents continue to mete out threats. This was reported to the local police, but no action was taken.

Learned advocate for the State relies on the report and submits that there is a case pending between the parties over the property in question. The police have filed a report in the proceeding under Section 144 of the Code. Enquiry reveals that there is an order of injunction passed in a civil suit filed by the petitioner.

It appears that the petitioner was granted an ad interim order of injunction in respect of the property by a competent civil court.

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 and not by use brutal force.

Therefore, the police shall 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.]

