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28.11.2024
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ct.no.35

W.P.A.27803 of 2024

**Md Salauddin Daptary
Versus
The State of West Bengal & Ors.**

Mr. Sayan Banerjee
Ms. Suparna Dutta.
...for the petitioner.

Mr. K.J. Yusuf
Mr. Parikshit Goswami.
...for the State-respondents.

Petitioner complains that his property is being attempted to be encroached at the behest of the private respondents. To that effect, petitioner approached the learned Executive Magistrate under the provisions of Section 144(2) of the Code of Criminal Procedure and there was an order to that effect.

Learned advocate for the State has submitted a report. Report reflects that the State authorities have drawn up proceedings under Section 107 of the Code of Criminal Procedure.

So far as the powers under Section 144(2) of the Code of Criminal Procedure is concerned, the same is valid for a period of 60 days, if there are restrained order being passed. The Executive Magistrate do not have the powers under the Code to decide the right, title and interest of the property.

However, as the petitioner is aggrieved by the fact that the private respondents are digging his land and trying to change the nature and character of the property, petitioner would be at liberty to approach the appropriate authorities under the West Bengal Land Reforms Act or the West Bengal Inland Fisheries Act concerned. If such representation or information is furnished, the appropriate authorities under the Act would dispose of the same in accordance with law, preferably within a period of 45 days from the date of filing of the said application.

With the aforesaid observations, WPA 27803 of 2024 is disposed of.

There will be no order as to costs.

Report submitted by the State be kept with the record.

A copy of the report be handed over to the learned advocate appearing for the petitioner.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

Urgent photostat certified copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)