

23 30.04.2024
NB Ct. 14

WPA 26570 of 2023

Sukumar Pal
Vs.
The State of West Bengal & Ors.

Mr. Keshab Chandra Das,
Mr. Biplab Adak,
Ms. Aparajita Mondal.
...for the petitioner.

Ms. Jhuma Chakraborty Id.Sr. Adv.,
Ms. Arpita Mondal.
...for the State.

Mr. G. G. Flossain,
Ms. Varsha Roy.
...for the respondent nos.4to9.

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

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the owner of the property in question. The private respondents have been disturbing the possession and enjoyment of the property by the petitioner. On one occasion, the private respondents came and suddenly started digging the land belonging to the petitioner. This was brought to the notice of the police, but no steps were taken.

Learned counsel appearing on behalf of the private respondents denies the allegations and submits as follows. The private respondents are the co-sharers in the property. A construction was being done as per permission taken from the concerned authorities.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. The dispute between the private parties is civil in nature. However, on the complaint of

the petitioner, a proceeding has been initiated by the police under Section 107 of the Code.

It appears that a civil dispute exists between the private parties.

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 of brute force.

It also appears that the police have taken some steps by initiating a proceeding under Section 107 of the Code.

Let the police authorities keep a sharp vigil at the locale and ensure that no breach of peace takes place.

In the event, the petitioner believes that a cognizable case is made out on the acts committed by the private respondents, he shall be at liberty to act in terms of the ratio laid down in ***Aleque Padamsee's*** Case, (2007) 6 SCC 171.

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.)