

WPA 26690 of 2023

Shanti Maity
Vs.
The State of West Bengal & Ors.

Mr. Gouranga Kumar Das,
Ms. Poulami Dutta.
...for the petitioner.

Mr. Asish Kumar Guha,
Mr. Rajendra Chaturvedi.
...for the State.

Affidavit of service filed on behalf of the petitioner is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the owner of the land in question and his name has been recorded in the record of rights. The private respondents had been disturbing the possession and enjoyment of the property by the petitioner and preventing the petitioner from cultivating the land. The petitioner filed a civil suit and obtained an order of injunction of status quo. He also initiated a proceeding under Section 144 of the Code, which recorded that the lawful and rightful "possessee" shall exercise his lawful right over the property. The police was approached but, they have not taken any steps.

Learned counsel appearing on behalf of the private respondents denies the allegations made in the writ petition and submits as follows. The private respondents have been possessing the land and cultivating the same for quite some time. They have filed their written statement in the civil suit.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. There is a civil dispute pending between the private parties. There was an order of status quo granted in the title suit filed by the petitioner. On the complaint of the petitioner, a specific police case being Namkhana PS Case No.308 dated 07.12.2023 was started. As per the report collected by the BL&LRO, Namkhana, a portion of the disputed land was recorded in the name of the petitioner Shanti Maity. The respondent no.4, Anup Kumar Bag also claimed that the petitioner's mother Anandamayee Mitra sold 20 decimals of land to him. However, the police had instituted a proceeding under Section 107 of the Code.

It appears that a civil dispute exists between the private parties. The civil Court was granted an order of status quo and there is also an order passed under Section 144A in favour of the possessee. Now the whole question is who is the "possessee".

From the BL&LRO's report, it appears that some portions of the land is recorded in the name of the petitioner. However, the private respondents also claim that the portion of the land was sold to him.

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 exercise of brute force.

It also appears that the police authorities have also taken steps on the complaint of the petitioner by registering an FIR and initiating a proceeding under Section 107 of the Code.

Let the police authorities 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.

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.)