

1243 01.05.2024
NB Ct. 14

WPA 27691 of 2023

Netai Maji
Vs.
The State of West Bengal & Ors.

Mr. M. A. Samad,
Ms. Priyanka Sharma,
Mr. Samrat Tahir.
...for the petitioner.

Mr. Suman Ghosh,
Ms. Munmun Tewary.
...for the State.

Mr. Kunal Ganguly,
Mr. Sudip Kesari.
...for the respondent no.11.

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

Despite service, no one appears on behalf of the private respondents except the respondent no.11.

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

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the owner of the land in question. He has two separate buildings on the same, one with a proper roof and the other with an asbestos shed. He wants to construct a proper roof for the other house and connect the two houses. Accordingly, he obtained a sanctioned plan from the Gram Panchayat. The private respondents are neighbours who have no right, title and interest in the property. They wanted to take an electric connection through and over the petitioner's

property. That is why the private respondents had been disturbing the petitioner and preventing him from enjoyment the property properly. On one occasion, they even assaulted the petitioner. The threats and intimidations continued. This was brought to the notice of the police authorities, but no steps were taken.

Learned counsel appearing on behalf of the private respondent no.11 denies the allegations and submits that the dispute is purely civil in nature. In fact, the petitioner does not have any sanctioned plan for the proposed construction.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. There is a civil dispute existing between the private parties. However, on the complaint of the petitioner, a proceeding was initiated under Section 107 of the Code on 07.11.2023. Over the allegations made by the petitioner on 22.12.2023, an FIR was registered being Daspur PS Case No.694 dated 22.12.2023 under Sections 341, 323, 379, 506 and 34 of the Penal Code.

It appears that the petitioner is the owner of the property in question. If, after obtaining a sanctioned plan, he wants to make a construction there, the private respondents would have no right to cause any hindrance to the same.

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

In the event, the petitioner wishes to make any construction over this property according to a sanctioned plan, he shall be at liberty to approach the Officer-in-Charge of the

local police station who shall deploy persons to stand guard when the construction is done. The expenses, if any, shall be borne by the petitioner.

Even otherwise, the police authorities shall keep a sharp vigil at the locale and ensure that no breach of peace takes place.

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.)