

HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

WPA 27781 of 2023

Swapan Kumar Roy
Versus
The State of West Bengal and others

For the petitioner:

Mr. Achyut Basu
Mr. Karik Chandra Kapas
Ms. Punam Basu
Mr. Rupchand Chakraborty
Mr. Srikumar Chakraborty
Ms. Pritha Biswas

For the State:

Mr. Sk. Md. Galib
Ms. Sujata Mukherjee

For the Respondent Nos.4 to 6:

Mr. Manabendra Thakur
Mr. Swarup Kumar Ghosh

Heard on

09.01.2024

Judgment on

09.01.2024

JAY SENGUPTA, J:

This is an application praying for direction upon the respondent No.6 to register an FIR on the complaint made by the petitioner and to keep a vigil at the petitioner's property.

Report filed by the State is taken on record.

Learned counsel representing the petitioner submits that the petitioner is the owner of the property in question. The private respondents are the co-villagers who are rank outsiders, having no right, title and interest over the said property. Yet, they had been harassing and intimidating the petitioner and disturbing the petitioner's peaceful possession of the property. They also committed assaults for which complaints were lodged. Complaints had to be lodged regarding damage to articles and theft of fish. The police did not act on the same. The petitioner was constrained to approach this Court earlier. By an order dated 24.08.2023 passed by this Court in WPA 18282 of 2023, this Court granted liberty to the petitioner to act in terms of the directions passed in *Aleque Padamsee's case* reported at (2007) 6 SCC 171. However, the illegal activities of the private respondents continued unabated. They had been holding a fair on the petitioner's land without his permission. They had been playing cricket on the petitioner's land and when objected to, the private respondents tortured the petitioner and his family

members. This was brought to the notice of the police, but no step was taken.

Learned advocate for the private respondents submits that since quite sometime now a fair is held near the petitioner's property, but not on the petitioner's land. The petitioner had also instituted a civil suit in respect of such property making the private respondents as parties.

Learned advocate for the State relies on the report and submits that earlier a proceeding was initiated under Section 107 of the Code on the complaint of the petitioner. It does not appear that the petitioner had exercised liberty granted by this Court earlier in terms of *Aleque Padamsee* (supra). However, the police are keeping a close watch on the developments in the locality.

Unless the petitioner grants permission to any other person for engaging in any activity in the petitioner's property, the same cannot be done.

Fortunately the private respondents have submitted that they have not been carrying out any such activities, whether conducting a fair or playing cricket on the petitioner's land.

The petitioner was earlier granted liberty to act in accordance with the direction passed in terms of the directions passed in *Aleque Padamsee* (supra). The same continues.

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

In the event any untoward incident occurs or is apprehended, the petitioner shall be at liberty to approach the local police who shall then act in accordance with law.

With the aforesaid observations, WPA 27781 of 2023 is disposed of.

Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

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

(Jay Sengupta, J.)