

20.12.2024
Item No.14
Ct. No.35
dc.

W.P.A. 29595 of 2024

Abed Sekh
versus
The State of West Bengal & Ors.

Mr. Sukumar Ghosh,
Mrs. Moumita Ghosh ... For the Petitioner.

Mr. Suman Sengupta,
Ms. Amrita Panja Moulick ... For the State.

Affidavit-of-service filed in Court today be kept with the record.

The petitioner complains that the private respondent instead of going to the civil court repeatedly approached the jurisdiction of this Court under Article 226 of the Constitution of India and on the other hand has been pursuing his notorious activities by creating disturbance from enjoying peaceful possession of the petitioner in his property. Learned advocate for the petitioner has drawn the attention of the Court both to the earlier writ petitions wherein the private respondent no.5 approached this Court in W.P. No. 14914(W) of 2019 and WPA 12595 of 2022.

Learned advocate for the State submits that he has received specific instructions that already proceedings have been drawn under Section 126 of the BNSS.

I have considered the submissions advanced by the petitioner as well as the earlier orders passed by the coordinate Bench of this Hon'ble

Court in separate writ petitions under Article 226 of the Constitution of India. Having considered the same, I am of the view that since a specific observation has been passed by the coordinate Bench that the issue with regard to “threat of dispossession, encroachment, title etc. cannot be gone into either by the police authorities or by the writ court. The petitioner (respondent no.5 herein) is at liberty to avail of his remedy before the appropriate forum”. If the petitioner therein i.e. the respondent no.5 herein do not approach the civil court, this Court cannot compel the respondent no.5 to approach the civil court.

The petitioner apprehends that he may also be dispossessed from his property since he is being disturbed in respect of enjoyment of his property. The principle which applies to the private respondent no.5, similarly applies to the petitioner. The police authorities have already taken steps by way of invoking the provisions under Section 126 of the BNSS. As such, no interference is called for.

Accordingly, the writ petition being WPA 29595 of 2024 is dismissed.

There will be no order as to costs.

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

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

(Tirthankar Ghosh, J.)