

17.12.2024
Item No. 3
PG/KS
Ct. No.1

M.A.T. 2272 of 2024
With
I.A. No. CAN 1 of 2024

Sk. Biraz & Ors.
Versus
Sri Swapan Kumar Roy & Ors.

Mr. Debjit Mukherjee
Mr. Swarup Kr. Ghosh
Mr. Tanmoy Mukherjee
Ms. Susmita Chatterjee
Mr. Kaustav Bhattacharya.....for the appellants

Mr. Mrinal Kanti Ghosh
Mr. Kartick Ch. Kapas
Mr. Chandra Nath Sarkar.....for the respondent no.1/
writ petitioner

Mr. Jaideep Banerjee
Mr. Raja Ram Banerjee.....for the State

1. The private respondents in the writ petition have preferred this intra-Court appeal challenging the order dated December 12, 2024 passed by a learned Single Judge in W.P.A. 29302 of 2024.
2. By the said order, the police authorities were directed to keep a strict vigil and to see that no untoward situation occurs because of the existing inimical relationship between the writ petitioner and the private respondents/appellants herein.
3. Mr. Mukherjee, learned advocate appearing for the appellants submits that the writ petitioner has suppressed the fact that there was a civil suit between the parties, which has since been dismissed.

4. Mr. Mukherjee further submits that the appellants herein are organising the fair popularly known as “Khudiram Mela” for the last 15 years and in view thereof, the appellants should be permitted to conduct the fair for this year also. Mr. Mukherjee draws the attention of the Court to the permission granted by the Paschim Medinipur Zilla Parishad in favour of the appellants herein for conducting the mela from December 25, 2024 to January 1, 2025.
5. Heard the learned advocate for the State and the respondent no.1.
6. The respondent no.1 claims that he along with his brothers and sisters are the owners of several plots of land in mouja Radhanagar and the appellants are planning to organise Khudiram Mela on the said plots of land. The respondent no.1 lodged a complaint before the Officer-in-Charge of the local police station alleging that the appellants herein are threatening the respondent no.1 and his family members of dire consequences. Alleging inaction of the police authorities, the writ petition was filed.
7. Record reveals that Pusparani Mal and others filed T.S. No.101 of 2019 before the learned Civil Judge (Junior Division), Ghatal against the appellants and the respondent nos.7 and 8. It appears that the learned advocate for the appellants submitted before the learned Single Judge that a civil suit is pending.

8. It is not in dispute that the civil suit has been dismissed for default and an application for restoration of the said suit under the provisions of Order IX Rule 9 of the Code of Civil Procedure being Misc. Case No. 35 of 2022 is pending before the learned Civil Judge (Junior Division), Ghatal.
9. The question would be as to whether the appellants herein have a right to conduct a fair in respect of the plots in question for which the permission has been granted by the Paschim Medinipur Zilla Parishad.
10. The appellants herein have not produced any document before this Court in support of their right, title, interest and possession in respect of the plots wherein they are planning to organize a fair. Any permission granted by the Zilla Parishad or any other authority for organising mela/fair is not binding upon the owners of the land.
11. The private parties are claiming title in respect of the plots in question. Such a dispute cannot be decided by this Court in an intra-Court appeal against an order passed in a writ petition alleging inaction on the part of the police authorities.
12. This Court further finds that the learned Single Judge after noting the submission of the learned advocate for the appellants herein that they may be organising a fair but with the consent of the writ petitioner directed the administration to grant

permission for holding the fair only if the owner of the land grants permission.

13. In view thereof, we find no reason to interfere with the order impugned. Accordingly, the appeal and the connected application (I.A. No. CAN 1 of 2024) stand dismissed.

14. No costs.

15. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)