

16.04.2025

Court No. 35

Item No.15

Rakib

W.P.A. 6778 of 2025

Basudeb Dhara & Ors.

VS

The State of West Bengal & Ors.

Mr. Krishna Das Poddar,

Mr. Suvajit Maity,

Mr. Mandira Barman.

... for the Petitioners.

Mr. Subho Pathak,

Mr. Tamal Singha Roy,

Ms. Yamini Tiwari.

...for the private respondents.

Mr. Suman Ghosh,

Mr. Siddharta Ghosh.

...for State.

Affidavit-of-service filed by the petitioners be kept with the record.

Petitioners are aggrieved by the fact that inspite of being the owner of the land they are unable to enjoy the property. To that effect petitioners have been also facing not only inconveniences but also have been physically assaulted. For the same the petitioners had to undergo treatment at BPHC, Polba. Petitioners also approached the learned Executive Magistrate for necessary relief and the said proceedings are pending.

State has submitted a report. Report reflects that although, prima facie the police authorities opine that the land belongs to the petitioners and is enjoyed by the private respondents presently, however, police is not the authority to decide the right, title, interest and possession of the property. Petitioners would approach the proper

authorities or the Civil Court for necessary relief. Police has already drawn up proceedings being Polba P.S. Non-cognizable Report no. 52 of 2025 dated 07.01.2025 under the provisions of Sections 126/135(3) of the BNSS, by way of General Diary entry no. 1782 dated 25.03.2025 has been registered at the police station.

Having considered that the nature of the dispute stems out from the usage of ownership of the land, I am of the view that it would be fit and proper for the Civil Court to pass appropriate directions upon the police authorities, if any application is filed for rendering police assistance.

So far as the other issues relating to physical assault is concerned police authorities have already come to a finding regarding a non-cognizable offence. However, if the petitioners are dissatisfied with the same, in view of the medical prescriptions/BPHC OPD Tickets being referred to, petitioners would be at liberty to approach the Jurisdictional Magistrate under the relevant provisions of law. Learned Court would ascertain in respect of the nature of the offence i.e. whether cognizable or non-cognizable, thereafter would decide whether a case for investigation or issuance of process is made out and pass necessary directions adhering to the provisions of law.

In the meantime, police authorities would only ensure that there is no breach of the peace and/or

tranquility taking place and/or any untoward incidents resulting because of the strained relationship existing between the parties.

With the aforesaid observations WPA 6778 of 2025 is disposed of.

Report so submitted by the State be kept with the record.

A copy of the report be handed over to both the parties.

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.)