

01
10.07.2025
Ct. No. 11
Jayanta

MAT 897 of 2023
in
IA No. CAN 1 of 2023
in
IA No. CAN 2 of 2023

Dr. Afifa Ahamed
Vs.
State of West Bengal & Ors.

Mr. Partha Sarathi Bhattacharyya, Sr. Adv.
Mr. Wasim Acram
Mr. Raju Bhattacharyya
.... For the Appellant.

Mr. Amal Kumar Sen
Mr. Jaladhi Das
..... For the State.

The present appeal has been preferred challenging an order dated 28th February, 2023 passed by the learned Single Judge in a writ petition being WPA No. 27876 of 2022. By the said order the learned Single Judge upon recording the grievance of the writ petitioner/appellant herein observed, *inter alia*, that the 'Court is of the view that as to whether there was a construction or residence on the land or whether it is a vacant, cannot be decided by the Police' and directed that the appellant may take appropriate steps in a Civil Court, in accordance with law.

On 22nd May, 2025 this Court directed the respondent no. 4 to conduct an enquiry with notice to the parties and to file a report detailing as to whether there is any dwelling house at plot no. 323 and if so, the details of

the rooms therein and as to whether the said dwelling house is occupied by any person.

Pursuant to such direction the respondent no. 4 has filed a report in the form of an affidavit stating, *inter alia*, that pursuant to the order passed by this Court and upon prior notice to all the parties including the Block Land & Land Reforms Officer an enquiry was conducted on 30th May, 2025. It was ascertained, *inter alia*, that plot no. 323 is a vacant land, a portion of the land in plot no. 322 is vacant and the rest area is covered by a building and a portion of land in plot no. 320 is covered by 'Kancha Houses'. It was further stated that the constructed portion of Plot no. 322 is possessed by one Johuriddin and Abdur Rahin and plot no. 320 is jointly possessed by Anrasul Hoque, Marful Haque and Abdul Akhem by erecting tin sheds - Kancha structures thereon. In the said affidavit a sketch map signed by the Revenue Inspector, Domahana Gram Panchayat was also annexed.

To the said report an exception has been filed by the appellant stating, *inter alia*, that the concerned plots had not been appropriately identified and as such the findings arrived at by the respondent no.4 are not sustainable.

Mr. Bhattacharyya, learned senior advocate appearing for the appellant submits that the appellant has been restrained by the private respondents from occupying her

own land and from using the same and such action is violative of her fundamental rights.

Mr. Sen, learned advocate appearing for the State respondents submits that from the records of the case it would be evident that there is a dispute as regards possession of three plots of land and that in a case of this nature a writ proceeding cannot be a substitute for a Civil Suit. As the appellant has alleged, *inter alia*, that she has been forcibly dispossessed her remedy is to approach the competent Civil forum.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

The issues involved in the writ petition pertain to possession of particular plots of land. The appellant claims to be the owner of plots of land on the strength of duly registered sale deeds and that the private respondents have illegally disposed her and contemporaneous complaint lodged to that effect had not been considered by the police authorities.

A writ petition preferred alleging police inaction has only a limited scope. The writ Court may interfere when approached for protection of rights declared by a decree or by an order passed by a Civil Court. It cannot be extended to cases where rights have not been determined either finally by the Civil Court or, at least at an interlocutory stage in an unambiguous manner.

In the said conspectus, the learned Single Judge rightly observed that the writ petitioner may take appropriate steps in a Civil Court, in accordance with law.

We do not find any infirmity in such observation and as such the order impugned is not interfered with. However, it is made clear that the police authorities shall ensure that no physical harm is caused to either of the parties due to the dispute between them.

Needless to observe nothing in this order shall prevent the Block Land & Land Reforms Officer from considering the complaint lodged by the appellant by way of a representation dated 30th May, 2025.

With the above observations and directions, the appeal and the connected applications are disposed of.

There shall, however, be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)