13.11.2026
Ct. No. 758
D/L. No.1
SM

WPA 26153 of 2024
Ajay Kumar Sarkar
Versus
The State of West Bengal

1. None appears for the petitioner even on the second call.

2. It appears from the record that the petitioner did not appear on the last occasion as well as when the matter is taken up for hearing.

3. By an order dated 30.09.2026 the matter was adjourned for the ends of justice.

4. Since this writ petition appears to be pending for a considerable period of time, the same is taken up for consideration.

5. The case of the petitioner is that the petitioner has purchased from one Saroj Gupta a bastu land measuring about 4 satak, situated within L.R. Dag No. 879, Mouja Durgapur, J.L. No. 88, Police Station-Bagda, District North 24 Parganas.

6. The petitioner has alleged that after purchasing the said bastu land, the petitioner has been threatened by private respondents from taking possession of the said property. According to the petitioner, the private

respondent, in collusion with the ruling political party members has been threatening the petitioner. The petitioner contends that the petitioner has been paying tax and/or khajana in respect of the said property. i

7. The petitioner further contends that on or about December 2, 2022, the petitioner has been ousted from his own house and has been compelled to leave the possession of his own land and is in continuous threat to his life and liberty at the hands of the ruling political party miscreants.

8. The petitioner further contends that the petitioner has from time to time informed of the illegal activities of the private respondents regarding the aforesaid alleged acts of land-grabbing to the concerned police station but the police station has failed and neglected to take any steps in the matter. The petitioner further contends that the petitioner has informed about his forceful eviction from his land to the District Magistrate, the Superintendent of Police and the Pradhan of Panchayat. However, despite all such representations, the authorities have failed and neglected to take any steps in the matter, etc.

9. In the aforementioned factual matrix, the petitioner has filed the present writ petition under Article 226 of the Constitution, inter alia praying for a writ in the nature of mandamus commanding the respondents, including the respondent nos. 1 to 6, to take steps for restoration of possession of the property to the petitioner. A further prayer had been made that the police authorities must take appropriate steps to register an FIR against the private respondent and other ruling political party miscreants for illegally encroaching the land of the petitioner.

10. After the writ petition was initially considered by this Court, a report was called for from the Officer-in-Charge of Bagda Police Station, being respondent No. 7. Accordingly, a report dated December 4, 2024, has been filed before this court by the Bagda Police Station.

11. From perusal of the report, it appears that the Police state that petitioner has purchased the aforesaid land from one Saroj Gupta. The report further states that the private respondent No. 8 had taken a loan from the said Saroj Gupta who has been carrying on a financial institution. Inasmuch

as the said respondent No. 8 failed and neglected to repay the said loan to Saroj Gupta, the said land were sold to the petitioner.

12. According to the petitioner, despite the transfer of title of the said property in favor of the petitioner, the private respondent denied to leave the property and hand over possession of the same to the petitioner.

13. The report further reveals that a series of complaints were lodged before the police authority. Upon such complaints being lodged, the police has recorded a GD entry no. 1161, dated 19/12/2022, pursuant to a complaint dated 2/12/2022. According to the police, the allegations made in the said complaint were relating to disputes relating to the land dispute and civil in nature. Similarly, another complaint dated 29/12/2023 was lodged with the police station, pursuant whereof GDE No. 2115 dated 29th December 2023 was recorded. As per the endorsement made by the OC, Bagdha PS, SI Sayan Patra conducted a local inquiry and submitted a prayer for prosecution under Section 107 Cr.PC against the private respondent vide Bagda PS NCR PR No. 629/24 dated 30/12/2024 to maintain

peace and tranquility of the location at the locality.

14. The report further reveals that on September 23, 2024, the said police station received a letter by post from the petitioner. Upon receipt of such complaint, the Officer-in-Charge of Bagda PS authorized SI Pratap Chandra Nag to conduct a local inquiry and submit a prosecution under Section 126 BNSS against the private respondent No. 9 vide Bagda PS NCR PR No. 501/24 dated 23/09/2024 to avoid any untoward incident at the locale.

15. The police has submitted that the dispute primarily relates to the possession of the disputed land. The police has disputed the allegation of the writ petitioner, where it contends that there has been complete inaction on the part of the police authorities.

16. Upon receipt of the aforesaid report, the petitioner sought for leave to file an exception to the said report. Accordingly, by an order dated December 4, 2024, this Court granted leave to the petitioner to file an exception by January 10, 2025 and rejoinder, if any, thereto by January 17, 2025.

17. It appears that the petitioner has thereafter been negligent and has not appeared before this Court. Be that as it may, upon perusal of the fact this case, the documents annexed to the writ petition and the report filed by the police. It appears that the petitioner grievance is that the petitioner has been dispossessed from the possession of land acquired by it from Saroj Gupta. It is alleged / claimed that the private respondents are in possession of the said land, and ever since the acquisition of the said land by the petitioner.

18. Whether the petitioner was ever put in possession of the property and was subsequently dispossessed, or whether the petitioner, after purchasing the property, has not been permitted to take possession thereof by the private respondents, are questions which fall for determination by a competent civil court. It will be open for him to institute an appropriate proceeding for recovery or restoration of possession as may be available to him in accordance with law.

19. The directions sought against the State respondents to put the petitioner in

possession through police assistance would require this Court to first determine whether the petitioner is entitled to possession of this disputed property. Such a direction cannot be issued on the facts of the present case. In *P.R. Murlidharan v. Swami Dharmananda Theertha Padar*, (2006) 4 SCC 501. The Supreme Court has held that a writ petition seeking police protection cannot be made a forum for adjudication of disputed civil rights.

20. So far as the grievance of the petitioner regarding non-registration of an FIR is concerned, the police report records that preventive steps have been taken on the complaint received from the petitioner. The question whether the allegations disclose a cognizable offence is left open. In Sakiri Vasu vs. State of Uttar Pradesh (2008) 2 SCC 409, the Supreme Court held that a person aggrieved by non-registration of an FIR by the police should ordinarily avail himself of the remedies provided under the Code of Criminal Procedure. The petitioner shall accordingly be at liberty to approach the jurisdictional magistrate in accordance with law.

21. In the aforesaid circumstances, this Court is not inclined to grant the relief prayed for in the petition.

22. The petitioner shall, however, be at liberty to approach the competent forum in accordance with law for redressal of his grievances.

23. WPA No. 26153 of 2024 is accordingly dismissed. There shall be no order as to costs. The question of title and possession and the merits of the allegations made by the petitioners are left open.

24. Any proceeding instituted before a competent forum shall be considered on its own merits without being influenced by the observations made by this court in this order, as this court had no occasion to adjudicate thereupon.

25. Urgent Photostat certified copies of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Anuj Singh. J)