

February 2, 2024
AD 66
Ct. No.14
SG

WPA 11814 of 2023

Haripada Mula
vs.
The State of West Bengal and others

Mr. Surendra Kumar Sharma
... for the petitioner.

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

Mr. Balaram Pandit (In VC)
Mr. Krishna Deo Das
... for the respondent Nos.11-15.

Affidavit of service filed in Court is taken on record.

Report filed by the State is also taken on record.

Learned advocate for the petitioner submits that the petitioner is the owner of the property in question. The private respondents are rank outsiders and antisocials of the locality who had driven out the petitioner from his own property. Since 2011, the petitioner had been trying to get access to his own property, several orders were passed by this Court and other courts in his favour, but the same could not be implemented by the police. Even the allegation of theft of articles from the property was not entertained by the police.

Learned advocate for the private respondents denies the allegations and submits that the private respondents are the neighbours of the petitioner as also

the co-sharers in respect of a particular plot of land. The land in question is owned partly by the petitioner, partly by the State and partly by the private respondents. At present there exists no building where the petitioner can enter and stay.

Learned advocate for the State relies on the report and submits that an application for contempt being CPAN 848 of 2022 earlier filed by the petitioner in WPA 5854 of 2021 was disposed of by a Coordinate Bench of this Court by recording the following. “The complaint which has been filed before the court and in respect of which the petitioner alleges inaction also discloses disputes with regard to the lands, fisheries etc. These issues cannot be decided by the police authorities. The police authorities have already taken steps to enquire into the matter.” Admittedly, the petitioner was not a resident under Patashpur Police Station. The police authorities have further submitted that the house and the land of the petitioner were badly damaged during flood and there was no scope for the petitioner to reside in the said premises. Accordingly, the contempt application was disposed of. However, at present the police authorities are willing to render necessary help if the petitioner wants to go to his property and reside there in terms of earlier order.

First, it is not for the private respondents to be concerned about whether the petitioner would be able to stay in the structure present on his land and whether the

same is habitable or not. There are orders passed by this Court earlier directing police to help the petitioner in the event the petitioner decides to go to his property and stay there. The local police authorities are willing to render such help. In the event the petitioner wishes to go to his property and stay there, the police authorities shall oversee his entry into the property.

They shall keep a sharp vigil at the locale and ensure that no breach of peace takes place. The surveillance shall include frequent visits by police patrol.

So far as the complaint purportedly made by the petitioner about theft and the like is concerned, he shall be at liberty to act in terms of the directions passed by the Hon'ble Apex Court in *Aleque Padamsee's case* reported at (2007) 6 SCC 171.

With these observations, the writ petition is disposed of.

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

[Jay Sengupta, J.]