

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

WPA 13913 of 2023
Swami Kalikananda Maharaj Math
Versus
The State of West Bengal & Ors.

For the petitioner : Mr. Subir Banerjee
Mr. Md. Hossain
Mr. N. N. Maity
Mr. Rasidul Islam

For the State : Mr. Sk. Md. Galib
Ms. Sujata Mukherjee

For the added respondent : Mr. Ajay Debnath
Mr. U. Mukherjee

Heard lastly on : 19.12.2023

Judgment on : 19.12.2023

Jay Sengupta, J:

This is an application alleging police inaction and praying for police help to construct a boundary wall.

Affidavit of service filed on behalf of the petitioner is taken on record.

Report filed on behalf of the State is also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is a charitable organization not only running a religious institution but also dealing with other benevolent and charitable work including running a school. It has the leasehold rights of the property in question situated at Mouza-Hadla, J. L. No. 23, Plot No. 1206 and 1206/1209 and Plot No. 9214 etc. The private respondents have been trying to grab the petitioner's property. They had been disturbing the possession and enjoyment of the property by the petitioner. This compelled the petitioner to file a civil suit being Title Suit No. 3 of 2010. In 2023, the suit was finally decreed in favour of the petitioner. By an order dated 30.01.2023 passed by the learned Civil Judge, Jr. Division, 2nd Court, Asansol, Paschim Bardhaman, the Court declared that Swami Kalikananda Maharaj Math was the owner of the suit property along with temples, deities, buildings and corpus. It was further declared that the Math had only its lease hold right over the suit property. The defendants were restrained permanently from causing any disturbance over the suit property regarding the peaceful performance of seba puja and running of the Math and the school and other activities. In spite of this, the private respondents continued to disturb the petitioner. This prompted the petitioner to approach the local police authorities, but they have not taken steps in this regard. The boundary wall of the petitioner's property has been severely damaged. For protection of the property, it is incumbent that the same is required

to be mended with police help. The petitioner has also prayed for registering the complaints made before the police as FIRs.

Learned counsel appearing on behalf of the added respondents submits as follows. The allegations made in the writ petition are denied. It is the added respondent who is actually the owner of the property in question as would be evident from the record of rights. The added respondent was not made a party in the civil suit.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. The complaints made by the petitioner on which FIRs have been sought to be registered do not make out a cognizable case. However, the police are ready to render help if the petitioner wants to put up a boundary wall to protect its property.

It appears that a Civil Court has passed a decree in favour of the petitioner holding that they are having lease hold rights over the property in question and restraining the private respondents from disturbing them.

If any of the parties including the added respondents wants to establish any further right in respect of the said property, the same has to be done before a Civil Court.

In view of the decree passed by the Civil Court, the petitioner shall have every right to construct a boundary wall to protect its property.

It also appears that the complaints made by the petitioner for registration of FIR do not make out a cognizable case.

Therefore, no further order need be passed in this regard.

However, the police authorities shall keep a sharp vigil at the locale, ensure that no breach of peace takes place and see to it that no order of a Civil Court is violated.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible

(Jay Sengupta, J.)