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22.12.2023
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Ct 14

WPA 28778 of 2023

Ram Chandra Sinha

-vs-

The State of West Bengal & ors.

Mr. Maidul Islam

Mr. Sumit Naskar

...for the petitioner

Mr. Swarup Banerjee

Mr. Sajal Ghosh

Mr. Manoj Kr. Bhattacharyya

...for the respondents

Mr. Pantu Deb Roy

Mr. Subrata Guha Biswas

...for the State

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.

Copies of documents filed on behalf of the private respondents is also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner has inherited 10% share in a land admeasuring about 10 satak. Effectively, he has a share of one satak in the said land. However, the land is not partitioned. The local fair committee has decided to hold a fair from 31.12.2023 to 10.01.2024 in the said land without even bothering to take his permission. Even the other co-sharers have not given permission. The private respondents cannot take away the petitioner's land for their own use even

on a temporary basis without their permission.

Learned counsel for the private respondents submits as follows. The allegations made in the writ petition are denied. All other co-sharers have given consent for the fair. However, the private respondents are willing to leave out the petitioner's share for holding such fair. This "mela" is being held for the last 30 years.

Learned counsel for the State relies on the report and submits as follows. The land in which the petitioner has a share is not partitioned property. However, the entire portion of the land of 10 sataks that is held by the petitioner and his co-sharers is a well-demarcated one. On the complaint of the petitioner, a proceeding has been initiated under Section 107 of the Code.

First, if the Fair committed had not intended to hold the fair on a portion of the property in which the petitioner was also having a share then there was no question of asking for permission even from the co-sharers.

It appears that the property in which the petitioner is having a 10 per cent share is not a partition one. If the petitioner does not want to give consent to the fair committee for holding a fair, the fair committee cannot force it upon them and hold a fair on any portion of land of 10 sataks where he is having a share. The police authorities shall take this into consideration while deciding whether to grant any permission for holding the fair.

In other words, if the fair committee can obtain

permissions from all other authorities and owners of any land, they shall be entitled to hold the fair on such land, but not on any portion of the land consisting of 10 sataks in which the petitioner is having a share as he is not giving permission for the same.

It also appears that the police have taken some steps on the complaint of the petitioner by instituting a proceeding under Section 107 of the Code.

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

However, the police authorities shall keep a strict vigil at the locale, ensure that no breach of peace takes place and see to it that no order of a 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.)