

02.06.2022
Sl. No.8
BP/KS

W.P.A. 9076 of 2022

Rajina Begam

Vs.

The State of West Bengal & Ors.

Mr. Kamalesh Chandra Saha

..... For the Petitioner

Mr. Amal Kumar Sen

.....For the State

Mr. Partha Chakraborty

.....For the Respondent No.5

Affidavit of service filed in Court today be kept with the record.

Indisputably the petitioner and respondent no.5 jointly purchased a piece of land having undivided share thereon by a single deed. It is alleged that the respondent no.5 has been trying to raise construction over the said undivided property. It is also not in dispute that a suit for partition is pending at the instance of the petitioner before the appropriate Civil Court. An order of status quo in respect of the suit property was also granted in the said suit being Title Suit No.436 of 2021 by the Learned Civil Judge (Senior Division), 1st Court, Barasat, the said order is still pending.

Now, the petitioner being the wife of the plaintiff of Title Suit No.436 of 2021 has come up before this Court

with the instant application that on 2nd April, 2022 when the private respondent tried to raise construction over the disputed property the petitioner tried to resist him but she was manhandled by the private respondent alongwith his associates, her modesty was outraged and finally the petitioner made an application under Section 156(3) of the Code of Criminal Procedure before the Learned Additional Chief Judicial Magistrate, Barasat. The Learned Additional Chief Judicial Magistrate, Barasat sent the said petition before the jurisdictional P.S. with a direction to start a specific case thereon. It is the allegation of the petitioner that in spite of such direction the police authority has not taken any step against the respondent and respondent is continuing such wrongful act upon the petitioner and her family.

Learned advocate for the State has filed a police report on perusal of which I find that on the basis of the complaint police registered Deganga P.S. Case No.299 of 2022 dated 30th April, 2022 against the respondent no.5 and his associates under various penal provisions. Notice under Section 41A was served upon the respondent no.5. He was interrogated by the police. Subsequently the

respondent no.5 surrendered before the Court of the Learned Magistrate and obtained an order of bail.

Considering the police report, I do not find any support of the allegation made by the petitioner that police did not take any action and start investigation of Deganga Police Station Case No.299 of 2022.

The power of the Constitutional Court cannot be used as a coercive machinery upon an individual. If the petitioner has any objection with regard to the course of investigation, she can take appropriate step in the Court of the Jurisdictional Magistrate.

Previously the husband of the petitioner came up with similar kind of application being W.P.A. No.4634 of 2022. The said application stood dismissed with cost by a Co-ordinate Bench.

Be that as it may, I do not find any merit in the instant writ application. Accordingly, the instant writ application is summarily dismissed.

The police report be kept with the record.

(Bibek Chaudhuri, J.)