

(2018) 05 CAL CK 0097
In the Calcutta High Court
Case No : Writ Petition22597 (W) of 2016

Abanindranath Mondal & Ors.

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

Date of Decision : 02-05-2018

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2018) 05 CAL CK 0097

Hon'ble Judges : PROTIK PRAKASH BANERJEE, J

Bench : Single Bench

Advocate : Bellal Shaikh, Soumik Ganguly, Ronit Mukherjee

Final Decision : Disposed Of

Judgement

This writ petition was instituted in 2016 by a group of co-owners of joint land.Â It was the grievance of the writ petitioners that third parties having no rights whatsoever on the said cultivable land have been obstructing the writ petitioners during the harvest season.Â On an earlier occasion due to such unrest, proceedings under criminal law had to be taken out and when they bore no fruit, the writ petitioners had to approach this Court under Article 226 of the Constitution of India by way of W.P. 24624(W) of 2015 and on such occasion this Court by an order dated December 16, 2015 was pleased to direct the police authorities to offer reasonable protection to life and properties of the petitioners. Similarly, some other co-sharers apparently had also approached the police and on being thwarted had come back to the writ court and obtained necessary relief, which too is not disputed by the learned advocate Mr. Bella Shaikh, appearing for the State. Even though after going through the records, it appears to me that there is nothing on record to show service on the private respondents or any of the

respondent nos. 2 to 11 and only the Government Pleader's office has been served, Mr. Bellal Shaikh, learned advocate, takes up cudgels on behalf of the State of West Bengal and proposes to oppose the writ petition in his own inimitable way.

He submits that on the earlier occasions the writ petitioners and/or those similarly situated such as their co-sharers had first approached the police or obtained some orders from the criminal court, but in this case, the writ petitioners have done nothing of the sort.

I would have thought that this would have been sufficient for the writ petition to have been dismissed, since to my mind the writ court is not the local

neighbourhood forum to enforce remedies, which are more properly available before the civil or the criminal court in a shorter period of time where

sudden and imminent breach of peace or dispossession is either alleged or apprehended or has even in some cases occurred.Â But Mr. Shaikh

submits that in case an application is made by the writ petitioners for police protection, then it shall be considered in accordance with law and if found

necessary, such police protection shall also be accorded to Mr. Ganguly's clients, as has been done in the past. Since Mr. Shaikh has decided to

be this fair, the writ court can do nothing but offer its blessing to such ritual harakiri and pass an order in the following terms to dispose of the writ

petition:-

Let the writ petitioners make a representation, if not already made, to the appropriate police authority, which is the respondent no.4, giving all

particulars and details of what protection they require and why they require so and their willingness to deposit the appropriate costs and fees for such

protection, if such application/representation is made then the respondent no.4 shall consider and dispose of such representation in accordance with

law and offer such police protection within 48 hours from depositing of the requisite fees and costs in case the representation is allowed.Â Since the

State of West Bengal has objected only to the fact that no application was made for police protection as a reason for denying it, it is needless to

mention that if such application is made out any apprehension of breach of peace, such application shall not be rejected without cogent reasons being

shown.Â

The writ petition is disposed of after recording the appreciation of Mr. Shaikh's

fairness without, however, there being any order as to costs.Â

Let a copy of this order be communicated by Mr. Ganguly's clients on the direction of the Court to the learned Advocate General, the learned

Government Pleader and the learned Senior Standing Counsel for the records.

Urgent certified website copy of this order, if applied for, be made

available to the parties upon compliance with the requisite formalities.