

29-12-2022
Court No.07
AGM/AKG
Item No. 02

WPA 29163 of 2022

**Boon Realtors Private Limited
Vs.
The Commissioner of Police & Ors.**

Mr. Saptangshu Basu,
Mr. Dipankar Biswas,
Ms. Ranjabati Ray
...For the Petitioner.

Mr. Amal Kumar Sen,
Mr. Swapan Kumar Pal
...For KMC.

Mr. Partha Chakraborty,
Ms. Poulomi Dutta
... For the respondent no. 4.

The petitioner, in this present writ petition, has prayed for police protection on the strength of the order dated 17th December, 2022 passed by the District Judge, 24 Parganas (South) on Misc Appeal No. 416 of 2022.

The relevant part of the said order dated 17th December, 2022 is reproduced below:

"That all the respondents including their men and agents are restrained from disturbing the peaceful possession of the appellant, in respect of the Schedule 'C' property without due process of law, till 17.01.2023."

Mr. Saptangshu Basu, learned senior advocate representing the petitioner submits that order has

been passed by the District Judge to the extent that respondents including their men and agents are restrained from disturbing the peaceful possession of the appellant, being the petitioner herein in respect of Schedule 'C' property without due process of law till 17.01.2023.

While advancing argument on behalf of the petitioner, reliance has been placed on the judgment of the Apex Court reported in **(2006) 4 Supreme Court Cases 501 (P.R. Murlidharan and Others – vs- Swami Dharmananda Theertha Padar and Others)**.

According to the petitioner, it has been unequivocally decided by the Apex Court in *P.R. Murlidharan (Supra)* that when a civil court has passed an order finally or at the interlocutory stage declaring the rights, there is no impediment in granting police protection in favour of the party in whose favour Civil Court has passed order finally or order may be interim in nature.

Accordingly, it has been submitted that since the order has been passed by the appropriate Civil Court dated 17th December, 2022 and a complaint has been lodged before the concerned police authorities for grant of police protection in order to restrain the

private respondents in interfering with the peaceful enjoyment of the said property by that time the police authority ought to have taken appropriate steps.

Mr. Amal Kumar Sen, learned Additional Government Pleader representing the State respondents has submitted report dated 28th December, 2022 of the officer-in-charge, Bhowanipore Police Station, which is taken on record.

It has been submitted on behalf of the State respondents since the order dated 17th December, 2022 relates to Schedule 'C' property and that was passed for a limited period upto 17th January, 2023 the police authority, on being approached by the petitioner, is required to demarcate schedule 'C' property in order to extend the police protection in favour of the petitioner.

Having considered the submissions made on behalf of the respective parties, prayer for police protection which has been made on behalf of the petitioner, ought not to be granted at this stage till Miscellaneous Appeal No. 416 of 2022 is finally decided by the Civil Court. In this regard this Court is also inclined to rely upon paragraph 19 of *P.R. Murlidharan (Supra)* wherein it has been observed by

the Apex Court that it cannot be extended where rights have not been decided finally by the civil court at an interlocutory stage in unambiguous manner.

This Court also finds it improper to give direction upon the police authorities to delineate Schedule 'C' property for extending the police protection as sought for on behalf of the petitioner.

Accordingly, the writ petition stands dismissed.

There shall be, however, no order as to costs.

Photostat certified copy of this order, if applied for, be supplied to the learned advocates appearing for the parties expeditiously on compliance of all requisite formalities.

(Saugata Bhattacharyya, J.)