

Constitutional Writ

Present:

The Hon'ble Mr Justice Kumar Biswas

Judgment on 27.08.2010

W.P.No.18035(W) of 2010

Md. Yusuf Molla

-vs-

The State of West Bengal & Ors.

Points:

Police Guard-Whether supply of police guards can be given on the allegations are that the private parties have been disturbing his possession of the property and threatening him with dire consequences – Constitution of India Art 226

Facts:

Petitioner filed the writ application for supply of police guards alleging that the private parties have been disturbing his possession of the property and threatening him with dire consequences.

Held:

If the petitioner is apprehending dispossession of his property, then, his remedy is before the Civil Court. If the private parties have committed any offence punishable under any criminal law of the land, then, the petitioner's remedy is before the Magistrate under s.156(3) or s.190 of the Code of Criminal Procedure, 1973. Para 3 and 4

The petitioner is not entitled to supply of police guards, simply because he is ready to pay. For the purpose he must make out an appropriate case. Para 5

Mr. Nirmalendu Bera and Mr. Abhijit Sarkar, advocates, for the petitioner.

The Court: - After going through the application for supply of police guards (at p.33), I am of the view that the petitioner has failed to make out a prima facie case for remitting the matter to the Superintendent of Police concerned for examining the question of supplying him police guards at his expense.

2. The petitioner's allegations are that the private parties have been disturbing his possession of the property and threatening him with dire consequences.

3. If the petitioner is apprehending dispossession of his property, then, in my opinion, his remedy is before the Civil Court.

4. If the private parties have committed any offence punishable under any criminal law of the land, then, in my opinion, the petitioner's remedy is before the Magistrate under s.156(3) or s.190 of the Code of Criminal Procedure, 1973.

5. The petitioner is not entitled to supply of police guards, simply because he is ready to pay. For the purpose he must make out an appropriate case. He is not entitled to any relief from the Writ Court.

6. For these reasons, the petition is dismissed. No costs. Certified xerox.

(Jayanta Kumar Biswas, J.)

