Constitutional Writ Present : The Hon'ble Mr Justice Jayanta Kumar Biswas Judgment on 31.08.2010 W.P.No.17803 (W) of 2010 Ashok Kumar Khatua & Anr. -vs-The State of West Bengal & Ors.

POINTS:

SCOPE OF WRIT: Private respondents doing unlawful and wrongful activities, obstructing peaceful enjoyment of the lands of the petitioners and for criminal trespass over the lands of the petitioner- Writ whether maintainable for directing the police to perform their statutory duties-Constitution of India Art.226

FACTS:

Writ petition filed by the petitioners commanding the police authorities, to perform their statutory duties under the law by taking appropriate legal steps against the respondents nos. 6 to 9 and their associates for unlawful and wrongful activities and for criminal trespass over the lands of the petitioners and for illegal obstruction in peaceful enjoyment of the lands in question of the petitioners.

HELD:

The petitioners' remedy, if any, was before the Civil and Criminal Courts. If the police decided not to register any FIR even after information was given by the petitioners, then the petitioners were free to approach the Magistrate under s.156(3) or s.190 of the Code of Criminal Procedure, 1973. There is no reason for the High Court to exercise power under art.226 for making any order in the matter. The petitioners are not entitled to any relief from the Writ Court.

Para 3

Mr. Gautam Guria	for the petitioners
Mr. Tapash Ghosal	for the State

<u>The Court</u>: The petitioners in this art.226 petition dated August 20, 2010 are seeking the following principal relief:

"a) A Writ in the nature of Mandamus commanding the respondents concerned, to perform their statutory duties under the law by taking appropriate legal steps against the respondents nos. 6 to 9 and theri associates for unlawful and wrongful activities and for criminal tresspassover the lands of the petitioners and for illegal obstruction in peaceful enjoyment of the lands in question of the petitioners."

2. I agree with counsel for the State that with a pure private dispute the petitioners have approached the Writ Court involving the police.

3. In my opinion, the petitioners' remedy, if any, was before the Civil and Criminal Courts. If the police decided not to register any FIR even after information was given by the petitioners, then the petitioners were free to approach the Magistrate under s.156(3) or s.190 of the Code of Criminal Procedure, 1973. There is no reason for the High Court to exercise power under art.226

for making any order in the matter. The petitioners are not entitled to any relief from the Writ Court.

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

(Jayanta Kumar Biswas, J)