

29.09.2020
Item No.01
Supplementary List
Court No.11
Krishnendu

**W.P.A. No. 6980 of 2020
With
C.A.N. No. 01 of 2020
(Via Video Conference)**

In re: Barun Ghosh
- Versus –
The State of West Bengal & Ors.

Mr. Srijib Chakraborty
Mr. Suryaneel Das
For the Petitioner

Mr. Raja Saha
Mrs. Rupsha Chakraborty
For the State

Mr. Supratim Dhar
Ms. Sudeshna Das
For the Respondent No.5

Petitioner undertakes to affirm and stamp the petition/application as per Rules within one month of resumption of normal functioning of the court. Subject to such undertaking, the application is taken up for hearing through video conference.

The application, being CAN No. 01 of 2020, is disposed of.

The present writ petition has been preferred challenging, *inter alia*, the inaction on the part of the police authorities to take appropriate steps on the basis of the complaint lodged by the petitioner against the private respondent no. 5.

Mr. Chakraborty, learned advocate appearing for the petitioner submits that the petitioner was inducted as a tenant in the shop premises detailed in paragraph 4 of the petition of which the respondent no. 5 is the owner. Due to the extraordinary situation prevailing, the petitioner could not deposit the rent for a few months. Taking advantage thereof, the respondent no. 5 sought to interfere with the petitioner's physical possession of the shop premises. Aggrieved thereby, the petitioner filed an application under Section 144(2) of the Code of Criminal Procedure in which an order was passed on 19th August, 2020.

Placing reliance upon the averments made in paragraph 12 of the writ petition, Mr. Chakraborty submits that after the order passed by the learned Magistrate, the police personnel forced the petitioner to close the shop room on 25th August, 2020 and the keys of the lock, as placed, had been taken away by the police personnel. A complaint to that effect was immediately lodged on 27th August, 2020, but no steps have been taken. Mr. Chakraborty further submits that due to the forcible closure of the shop room, the petitioner is not in a position to

run his business and he is suffering extreme financial crisis.

Mr. Dhar, learned advocate appearing for the respondent no. 5 denies and disputes the contention of the petitioner and submits that the dispute is civil in nature and the petitioner had admittedly failed to pay the rent of the shop room to the respondent no. 5. Till date approximately a sum of Rs.8,05,000/- is due towards rent.

Mr. Saha, learned advocate appearing for the respondent no. 5 submits that the allegation levelled against the police authorities is absolutely unfounded. The police authorities have not taken the keys of the shop room from the petitioner. The dispute is civil in nature and the same cannot be made the subject matter of an application under Article 226 of the Constitution of India.

In the midst of hearing and in consideration of the fact that a pandemic situation is prevailing, this Court requested Mr. Chakraborty and Mr. Dhar, learned advocates appearing for the petitioner and the respondent no. 5 respectively, to make an endeavour to resolve the dispute amicably. In spite of their best efforts, the parties, being the petitioner and the respondent no. 5

herein, have not been able to arrive at any settlement.

The dispute between the petitioner and the private respondent no. 5 is as regards possession of a shop room. The same is absolutely civil in nature. In view thereof, no interference is called for in the present writ petition.

Mr. Saha appearing for the State submits that as the complaint does not disclose any cognizable offence, the same has not been treated as an F.I.R.

For redressal of the grievance that the police authorities have not treated the complaint as F.I.R., the petitioner would be at liberty to avail the remedy, as provided under the Code of Criminal Procedure.

In view thereof, no interference is called for and the writ petition is dismissed.

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

All concerned parties shall act in terms of the copy of the order downloaded from the official *website* of this Court.

(Tapabrata Chakraborty, J.)