

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

WPO 249/2020
IA NO. GA/1/2020

CHANDAN JAISWAL
Versus
OFFICER IN CHARGE,
SHAKESPEARE SARANI POLICE STATION
AND ORS.

BEFORE:
The Hon'ble JUSTICE BIBEK CHAUDHURI
Date : 21st September, 2020.

Appearance:
Mr. Mainak Bose, Adv.
Mr. Rishabh Karnani, Adv.
Mr. Shakeel Mohammad Akhter, Adv.
... for the petitioner.

Mr. Manoj Malhotra, Adv.
Mr. Suman Dey, Adv.
... for the state.

The Court : The petitioner is one of the partners of a shop space situated on the ground floor of premises No. 3B Short Street, Kolkata – 700017. He used to carry on a business of saloon and spa in the said shop room. It is alleged by the petitioner that the landlord instituted a suit against him in the City Civil Court for eviction. The said suit is pending. Subsequently, in order to evict him illegally the landlord, respondent no.3 herein lodged a complaint under Section 3, 4, 5, 7 and 18 of the Immoral Traffic (Prevention) Act, 1956 against the petitioner. the petitioner was arrested during investigation of the said case and

subsequently he has been enlarged on bail. Now the grievance of the petitioner is that the landlord is obstructing his ingress and egress to and from the said shop room thereby restraining him from running with his business which is his sole source of livelihood. The petitioner made a complaint before the officer-in-charge, Shakespeare Sarani police station, respondent no.1 herein but the police authority did not take any action. Therefore, the petitioner has prayed for issuance of a writ of mandamus against the officer-in-charge Shakespeare Sarani police station directing him to act in accordance with law protecting the petitioners fundamental right and to ensure that the petitioner can use and enjoy the said shop space and carry on his business without any interference and the obstruction from the landlord and their men and agents.

Learned Advocate for the state, on the other hand submits that the business in question was one of the partners has already handed over the possession of the said shop room in favour of the landlord one of the partners has resigned from partnership the petitioner was arrested in a case under Immoral Traffic (Prevention) Act, 1956 under the complaint of one Krishna Bose who is not the landlord. Two families were recovered from the said shop room cum spa the Kolkata Municipal Corporation refused to grant trade licence in favour of the petitioner and without such trade licence the petitioner cannot run any business.

In the instant matter we are concerned with alleged police inaction. I have perused the complaint made by the petitioner the copy of which has been annexed at page 61, 62, 63 and 64 respectively of the writ petition. The said

complaint does not disclose any offence allegedly committed by the private respondent. It is not the duty of the police authority to help a person in the matter of ingress and egress to and from his tenanted shop room. Even assuming that the petitioner is instructed by the landlord and his men and agents, such action is prima facie a civil wrong for which remedy lies with the civil Court by filing a suit for injunction. On the other hand, if the police authority fails to take any action on the complaint submitted by the petitioner the next course open to the petitioner is to send a copy of such complaint to the superior officer of the police force with a prayer to start specific case against the offender. The remedy also lies by filing an application under Section 156(3) of the Code of Criminal Procedure. The writ remedy cannot be obtained bypassing the statutory provisions made under various statutes. If the petitioner thinks that the private respondent committed some offence and police has failed to take action against the private respondent he could have filed a complaint under Section 156(3) of the Code of Criminal Procedure.

For the reasons stated above, I find that the instant writ petition is devoid of any merit and accordingly the writ petition is summarily dismissed.

(BIBEK CHAUDHURI, J.)

