IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No. 4033 of 2019

Mohan Lal Mishra ….. Petitioner

Versus

1. The State of Jharkhand
2. The Deputy Commissioner, Dhanbad
3. The Superintendent of Police, Dhanbad
4. The Sub-Divisional Officer, Dhanbad ….. Respondents

CORAM

HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner: Mr. Sanjay Prasad

For the State: Mr. Navnit Prakash, A.C to S.C-III

04/09.01.2020 The present writ petition has been filed for issuance of direction upon the respondent No.4 to unseal the residential premises of the petitioner which was let out on monthly rent to one Tapa Brata Ghosh vide tenancy agreement dated 30.10.2009 and was sealed by the respondent No.4.

According to the petitioner, he is the absolute owner of the house measuring an area of 2500 sq. ft. carpet area (approx.) situated at the second floor with parking area of 4027 sq. ft. in the ground floor over the land appertaining to Plot Nos. 1996 & 1997, Khata No. 166, P.S-Govindpur, Mouza-Govindpur, District-Dhanbad. One Tapa Brata Ghosh, son of Late Satish Chandra Ghosh, the then Branch Manager of Rose Valley Chain Marketing, approached the petitioner's son and requested him to let out his house on rental basis. Thereafter, a tenancy agreement dated 30.10.2009 was executed and the said premises was let out to Tapa Brata Ghosh. Thereafter, Tapa Brata Ghosh was made an accused in connection with Govindpur P.S. Case No. 33/2013 (G.R. No. 269/2013) and the rented premises was sealed in connection with the said criminal case. Subsequently, the trial of the said criminal case ended in acquittal of the accused persons vide the judgment dated 27.01.2017 passed by the learned Chief Judicial Magistrate, Dhanbad. Under the said circumstance, the petitioner being the rightful owner of the premises in question is entitled to use the same. After acquittal of the accused persons, the petitioner preferred an application before the respondent No.4 requesting inter alia to unseal the said

premises. However, no decision has been taken in this regard by the respondent No.4.

Learned counsel for the petitioner puts reliance on the order dated 28.11.2017 passed by this Court in W.P.(C) No. 6305/2017 (Dilip Kumar Vs. State of Jharkhand & Ors.) and submits that in a similarly situated case, the said petitioner was given liberty to file a fresh representation before the respondent No.4 for unsealing the premises situated at Mathura Complex, Govindpur, Dhanbad and the respondent No.4 was directed to take appropriate decision in this regard within a specified period.

A counter affidavit has been filed on behalf of the respondent Nos. 1, 2 & 4 stating inter alia that the judgment dated 27.01.2017 passed by the learned Chief Judicial Magistrate, Dhanbad (a copy of which has been annexed as Annexure-3 to the writ petition), does not show that Tapa Brata Ghosh was an accused in connection with Govindpur P.S. Case No. 33/2013 (G.R. No. 269/2013).

Heard learned counsel for the parties and perused the contents of the present writ petition. On perusal of the judgment dated 27.01.2017 passed by the learned Chief Judicial Magistrate, Dhanbad in G.R. No. 269/2013 (T.R. No. 1126/2017), it is not clear to the Court as to whether Tapa Brata Ghosh was made an accused by the police in connection with Govindpur P.S. Case No. 33/2013 (G.R. No. 269/2013). In absence of clear facts before this Court, no direction can be issued to the respondent No.4 as prayed by the petitioner in the present writ petition. However, the petitioner is at liberty to prefer a fresh representation before the respondent No.4 in this regard, who after verifying the actual facts and on providing due opportunity of hearing to the petitioner, shall pass an appropriate order within a reasonable period.

The present writ petition is accordingly disposed of with the aforesaid liberty and direction.

Satish/- (RAJESH SHANKAR, J)