

1st March,
2021
(AK)
18

W.P.A. 1444 of 2021

Ashok Banerjee
Vs.
The State of West Bengal & Ors.

Mr. Jayanta Narayan Chatterjee
Mr. Debashis Banerjee
Mrs. Nandini Chatterjee
Mr. Nazir Ahmed
Mr. Supreem Naskar
Ms. Jayashree Roy Karmakar
Ms. Swagata Das
Ms. Ritusree Banerjee
...For the Petitioner.

Mr. Debanjan Bhattacharjee
Ms. Swarnali Saha
...For the Private Respondent No.4.

Mr. S.T. Mina
Mr. Gazi Faruque Hossain
Ms. Priyanka Mondal
...For the Private Respondent No.5.

Mrs. Chama Mookherjee
Mrs. Paramita Pal
...For the State.

The petitioner, a septuagenarian, complains that, adjacent to the petitioner's residence, the private respondent nos.4 and 5 (being the owner and developer respectively of the adjacent plot) are seeking to develop their property, for extension of which, the private respondents have been attempting to harass the petitioners.

Not being content with such acts, the respondents have started demolishing the residential premises of the petitioner brutally.

In support of such allegations, certain photographs have been annexed to the writ petition showing extensive damage.

Learned counsel for the petitioner argues that although an FIR might have been registered on the basis of the petitioner's complaint, the petitioner requires constant protection from the police authorities in view of his advanced years and in view of the regular threats received by the petitioners from the private respondents.

Learned counsel appearing for the respondent no.4 as well as respondent no.5 submit that a civil suit is pending in connection with the property in-question.

Since the matter is sub-judice before a civil court, there is little scope for any direction being passed within the scope of the present writ petition.

It is further submitted on behalf of the respondent no.4 that the petitioner, in the pending civil suit, had specifically prayed for an injunction, which was refused by the civil court.

Hence, in order to obtain indirectly what the petitioner could not get directly from the civil court, the present writ petition has been filed.

Whatever may be the fate of the civil suit and despite the refusal of injunction by the civil court to

afford protection to the petitioner, it is *de hors* all norms of civil society and the Rule of Law to forcibly demolish the residence of a septuagenarian on the pretext of an injunction order having been refused.

Even if the petitioner does not enjoy any injunction, the private respondents cannot demolish the structure without an order of a competent court and due process of law.

As such, W.P.A. 1444 of 2021 is disposed of by directing respondent no.3 to afford police protection to the petitioner immediately for the purpose of preventing the private respondents and/or any other persons from trying to forcibly demolish the residence of the petitioner and/or harass the petitioner unlawfully in any manner.

However, this order will be subject to any order of demolition, if and when passed by a competent court/authority.

Since no affidavits have been invited, it is deemed that the respondents deny all allegations made in the writ petition.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)