

09.12.2021
Court No.13
Item No.27
AP

WPA 2847 of 2021
Sundari Halder
Vs.
The State of West Bengal and Ors.
(Through Video Conference)

Mr. Aniket Mitra
Mr. Sayan Dutta

... For the Petitioner.

Mr. Ranjit Rajak

... For the State.

Mr. Chittapriya Ghosh
Ms. Priyanka Saha
Ms. Komal Singh

... For the Respondent Nos.5 & 6.

Affidavit of serviced filed in Court today be kept with the record.

The petitioner complains that the private respondent Nos.5 and 6 being the first and third of the writ petitioner are preventing her from entering into her land standing in her name and the house property standing in the name of her late husband.

Learned counsel for the petitioner submits that the land in her name was purchased in the year 1984 and she wanted to sell the same in the year 2018 for her medical expenses. The private respondent Nos.4 and 5 are stated to have prevented the same.

The petitioner has also taken out proceedings under Section 144 and 133 of the Code of Criminal Procedure inter alia against the private respondents.

Bakultala Police Station has taken out proceedings under Section 107 and 116(C) of the Code of Criminal Procedure.

Learned counsel for the petitioner now submits that his client is being prevented from entering into the house property.

Learned counsel for the private respondents being the sons of the writ petitioner submits that the writ petitioner is being used as a front by the second son to grab the joint family property. It is also submitted that a Civil Suit being T.S. No.261 of 2013 is now pending before the learned Civil Judge (Senior Division) at Baruipur in respect of the suit property between the parties.

There is an order of status quo in the said civil suit. The writ petitioner, therefore, cannot sell the said property. This Court is not even remotely satisfied as regards the bona fides of the writ petitioner.

Since learned counsel for the private respondents sons submits that his clients have never opposed or prevented the mother from entering into the house, the writ petitioner may enter into the property and stay there.

The writ petitioner and the private respondents are directed to ensure there is no breach of peace in the house.

The other issues between the writ petitioner and the private respondents, not falling within the scope of the pending suit, may be agitated by the writ petitioner under

the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 before the Maintenance Tribunal.

The Officer-in-Charge, Bakultala Police Station may keep a vigil over the premises where the writ petitioner and the private respondents stay. In the event of any complaint as regards of any breach of peace in the area, the Officer-in-Charge, Bakultala Police Station shall take appropriate steps in accordance with law.

With the aforesaid observations, the writ petition is disposed of.

The instruction dated 12th February, 2021 issued by the Officer-in-Charge, Bakultala Police Station, Baruipur PD to the State Advocate, is taken on record.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)