

24.03.2021
Sl. No.49
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 4756 of 2021
with
CAN 1 of 2021

(Via video conference)

Smt. Sangita Hazra (Rakshit)
Vs.
The State of West Bengal & Ors.

Mr. Uttam Kumar Bhattacharyya,
Mr. Kaustav Mishra
.....for the petitioner.

Mr. Bibek Jyoti Basu,
Mr. Uttam Kumar De
.....for the State.

Mr. Uday Narayan Betal,
Ms. Mouparna Nag,
Mr. Mriganka Patra
.....for the respondent nos.5 & 6.

In the writ petition by an order dated 9th March,
2021, the following direction was given:

“The Officer-in-Charge, Garhbeta Police Station, shall take all steps and ensure that the petitioner can stay at the house at Village – Nalpa, P.O. – Panikotar, P. S. – Garhbeta, District – Paschim Medinipur, wherefrom the petitioner is said to have been driven out by the respondent nos.5 and 6 if he prima facie finds the allegations of the petitioner to be correct.”

The police authorities submit that on 15th March, 2021 at around 12.30 p.m., the petitioner had approached the respondent no.4 and in terms of the order, the respondent no.4 on finding that the petitioner’s version of having been driven out of her

house, being prima facie correct, reinstated the petitioner into the house.

An application has been taken out by the respondent nos.5 and 6. The said respondents allege that the petitioner acted with the order dated 9th March, 2021 and with the help of the respondent no.4 has not only got herself reinstated in the house, but has also ousted the respondent nos.5 and 6 from their place of residence and also in portion of the said house.

This fact is, however, disputed by the writ petitioner.

The respondent no.4 says that he has only carried out the direction given in the order dated 9th March, 2021 and is not a party to any act of alleged ousting of the respondent nos.5 and 6. On behalf of the respondent no.4, it is also submitted that the duty of the police was to see that the petitioner could stay at her house, which the police authorities have performed and as such, there is no further obligation on the part of the police authorities to look into the *inter se* civil disputes between the writ petitioner and the respondent nos.5 and 6, being the applicant in CAN 1 of 2021 being the subject matter of a suit filed by the petitioner as against the said respondents.

After going through the order dated 29th August, 2019 passed in T. S. 413 of 2019, it appears that the

defendant in the said suit, being the respondent no.5 along with respondent no.6 was residing in the same premises wherein the petitioner also resided.

The competent civil court had directed the parties to maintain status quo as regarding the nature and character of the suit property as also the possession of the parties. The said order, therefor, clearly indicated that the respondent no.5 along with respondent no.6, who was residing in the suit premises, should continue to hold on to their possession in terms of the said order dated 29th August, 2019. So neither the petitioner nor the respondent nos.5 and 6 can dispossess each other by taking advantage of the order dated 9th March, 2021. The order dated 9th March, 2021 was passed by this Court as the petitioner complained of being unable to reside at her house due to insecurity allegedly at the instance of the respondent nos.5 and 6 and having approached the police authorities, the petitioner was not assisted. The order dated 9th March, 2021 cannot be used or allowed to be used to alter the position of the parties, particularly when the civil suit is pending.

In the facts and circumstances as aforesaid, the respondent no.4 is directed to see that the respondent nos. 5 and 6 can also reside at the house, in a portion whereof the writ petition is now residing upon being reinstated in compliance with the order dated 29th

August, 2019. The respondent no.4 shall break open the padlock if it is found the portion wherein the respondent nos.5 and 6 resided is under lock and key. The respondent no.4 shall ensure that there is no breach of peace at the premises-in-question and the petitioner as also the respondent nos. 5 and 6 shall render all co-operation to the respondent no.4.

The writ petition and the application, being CAN 1 of 2021, are disposed of accordingly as there are no pending issues to be adjudicated therein.

Nothing in this order should influence the learned Civil Judge (Sr. Divn.) 3rd Court, Paschim Medinipur in deciding T. S. 413 of 2019 and any connected application therein. This order should not also be construed as an order finally adjudicating the right of possession of the writ petitioner and the respondent nos.5 and 6 in the premises-in-question which has to be decided by the civil court.

Since I have not called for any affidavits either in the writ petition or in the application, being CAN 1 of 2021, allegations contained in the writ petition as also in the said application, are deemed to have not been admitted.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Arindam Mukherjee, J.)

