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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 4090 of 2020
(Via Video Conference)

Smt. Lakhi Devi Shaw
Vs.
Liluah Police Station & Ors.

Ms. Lakshmi Shaw
... For the petitioner.

Ms. Karabi Roy, led by
Mr. Ashim Kumar Ganguly
... For the State.

Mr. Nirmalya Dasgupta
.... For the respondents no. 3 and 4.

The petitioner says that her mother-in-law was a tenant in respect of one shop room situate at 3, Patuatola Lane, Kolkata – 700009 (hereinafter referred to as the said shop room). Petitioner's mother-in-law use to operate a grocery shop and also stay at the said shop room.

After the death of the petitioner's mother-in-law, the petitioner's husband, Suresh Shaw, during his lifetime was occupying the said shop room and operating a grocery shop therefrom. The petitioner and her husband was staying in the said shop room till the death of her husband. The petitioner further says that after the death of the petitioner's husband, the landlord, being the respondent no.5 in the writ petition, in August, 2019, in collusion with the private respondents (respondents no. 3 and 4) wanted to forcibly evict the petitioner from the said

shop room and induct the respondents no. 3 and 4 as tenants. The petitioner also says that the respondents no.3 and 4 who are her relatives have trespassed into the petitioner's house situate at Liluah and looted her valuable articles therefrom. The petitioner also alleges to have been subjected to coercive action by the respondents no.3 and 4. In respect of such alleged acts of the respondents no.3 and 4, the petitioner made a complaint before the Liluah Police Station on 10th December, 2019. A General Diary Entry (in short, GDE) No.656 dated 10th December, 2019 was also registered pursuant to the petitioner's complaint. The petitioner says that the Liluan Police Station has taken no steps as against the respondents no.3 and 4 for which the instant writ application alleging police inaction has been filed.

On behalf of the State, it is submitted that pursuant to the complaint made by the petitioner investigation has been conducted and a charge-sheet as against the respondents no.3 and 4 has already been filed before the jurisdictional Magistrate alleging offence under sections 326/448/506/34 of the Indian Penal Code (in short, IPC). The respondents no.3 and 4, according to the State had also been arrested and have been subsequently enlarged on bail.

On behalf of the respondents no.3 and 4, it is submitted that the police case is pending against them and

they are on bail.

Considering the submissions made on behalf of the State and the private respondents, it cannot be alleged that the police authorities of the Liluah Police Station have taken no steps pursuant to the petitioner's complaint. There is, as such, no cause for interference in the matter complained of by the petitioner as against the respondents no.3 and 4 before the Liluah Police Station at this stage.

The petitioner, however, tries to make out a case of police inaction as against complaint said to have been lodged before the Amherst Police Station in connection with the said shop room wherefrom the petitioner's Late husband used to operate the grocery shop. The petitioner says that the petitioner is still in possession of the said shop room but may be dispossessed at the instance of the landlord, being the respondent no.5, in collusion and conspiracy by the respondents no.3 and 4. I am also informed that a civil suit is pending between the landlord and the petitioner. The petitioner also says that the electricity connection at the said shop room has been disconnected by the landlord (respondent no.5). The petitioner is also prevented from using the common privy, which the petitioner and her husband were allowed to use under the terms of tenancy. The complaints said to have been made by the petitioner before the Amherst Street Police Station are subsequent to the filing of the writ

petition and are not on record. The issue of alleged disconnection of electricity also cannot be gone into in this writ petition, as the same does not form part of the complaint made before the Liluah Police Station against which police inaction is alleged. The petitioner further says that these facts form part of an application filed in the writ petition. The said application, being CAN 2 of 2020 filed in the instant writ petition is, however, not before this Court. In any event, the scope of the writ petition which is restricted to alleged police inaction as against Liluah Police Station, cannot be extended by filing an application seeking relief not in aid of the main reliefs claimed in the writ petition or in respect of the set of allegations made in the writ petition. The petitioner's cause of action, if any, as against the Amherst Street Police Station or respondent no.5 are different from that in the instant writ petition.

The writ petition is, therefor, disposed of without any order save and except granting the petitioner liberty to seek redressal of her grievances relating to the shop room at Patuatola, including disconnection and electricity and prevention of use of the common privy said to form part of the application being CAN 2 of 2020 in appropriate proceedings in accordance with law as may be available to the petitioner. With regard to the allegations relating to the shop room, I refrain from making any order on merits as I have not considered such allegations or the application being CAN 2 of 2020.

The writ petition is accordingly disposed of without any order as to costs.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, is to be given to the parties upon compliance with the necessary formalities.

(Arindam Mukherjee, J.)