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5.05.2021
S.D.

W.P.A. 9871 of 2021

**Narayan Chandra Saha
Vs.
The State of West Bengal & Ors.**

Mr. Biswajit Tiwari

...For the Petitioner.

Mr. Subhabrata Dutta

Mr. Abdus Salam

...For the Respondent.

The petitioner is a senior citizen aged about 71 years and his wife namely Lakshmi Rani Saha is also a senior citizen aged about 68 years. Both of them resides at the address mentioned in the cause title in their own house which was built by the petitioner after having had taken the pains of struggling and establishing in life. The private respondent no. 4 is the younger son of the petitioner and private respondent no. 5 is the younger daughter in law of the petitioner i.e. the wife of the private respondent no. 4. The private respondents along with their children forcefully resides on the first floor of the house of the petitioner. Since past 5 years, the private respondents are torturing both physically and mentally the petitioner and his wife and

creating all sort of pressure upon the petitioner to transfer the house including the cash money of the petitioner in their name. The petitioner states that the quantum of torture and physical assault upon the petitioner and his wife increased to such an extent that the petitioner has to get himself admitted in Malda Medical College and Hospital for medical treatment.

The petitioner states that the private respondent no. 4 i.e., the younger son of the petitioner is a drunkard, anti-social, thief and all anti-social qualities are imbibed in him. The private respondent no. 4 in aid and in connivance with the private respondent no. 5 leaves no stone unturned in inflicting physical assault including assault with deadly weapon upon the petitioner and his wife. The motive of the attacks made by the private respondents is that the petitioner vacate and transfer the house in the name of the private respondents and move elsewhere so that they can enjoy the property and deprive the petitioner from his house.

The petitioner on 12.09.2019 made a detailed representation before the S.D.O. (Sadar), Malda having copy marked to other competent authorities thereby narrating the entire plight and the physical and mental assault being inflicted upon him by the private respondents and to look

into the matter and to evict the private respondents from the house of the petitioner so that the petitioner along with his wife can live peacefully. Pursuant to the representation dated 12.09.2019 made by the petitioner, the S.D.O (Sadar Malda) forwarded the complaint of the petitioner to the Inspector-In-Charge, English Bazar police station on 28.11.2019 for necessary action but to the utter dismay the Inspector-In-Charge of English Bazar police station sat tight over the issue and did nothing till date.

Although the petitioner had put himself in his house, the private respondents used to pick up quarrel intermittently which the petitioner used to undermine on certain occasion and at times the petitioner used to reply to them. The petitioner has suffered, being physically and brutally attacked by the private respondents not to speak of the regular verbal abuses inflicted on the petitioner. The petitioner used to visit the police station and lodge complaints but whenever the petitioner used to visit the police station, the petitioner was threatened of a counter case by them i.e., the private respondents. The petitioner is a helpless man and had to succumb to the pressures of the influence cast on the police by the private respondents. The petitioner simply keep on knocking the doors of the police

station but the petitioner never received any co-operation and lived in constant threat of being killed.

Finding no alternative, the petitioner has invoked the writ jurisdiction of this Hon'ble Court for direction upon the respondent authority to take necessary legal step against the private respondents who are holding of threat to the petitioner by continuous torture with the aim to dispossess the petitioner and his aged wife from the house. It would appear that the petitioner registered complaint of torture upon them to the Sub-Divisional Officer, (Sadar) Malda on 12.9.2019. The S.D.O., (Sadar) Malda endorsed the complaint on 28.11.2019 to the Inspector-in-Charge, English Bazar, Police Station – Malda, but of no effect. The petitioner solicited the intervention of the Superintendent of Police, Malda on 6.7.2020 for necessary action for justice relating to continuous torture and forcefully dispossession from the property by accused person, namely the private respondents and complaint was also registered with District Magistrate, Malda, English Bazar, but there appears inaction on their part.

Learned Government Pleader has pressed in service the report submitted by Inspector-in-Charge, English Bazar Police Station – Malda wherefrom it appears that the factual

aspect of the writ application has been taken notice of with regard to continuous threatening and physical assault on the aged petitioner and the aged wife of the petitioner by the private respondents who are nobody but younger son and the wife of the younger son of the petitioner. It is really painful to take note of such allegations against a son, in particular, who is allegedly creating torture upon his own parents with an object in mind to get the property. It reveals from the report of the Inspector-in-Charge that the petitioner has been alleging since past five years that the private respondents have been torturing upon the petitioner and wife of the petitioner mentally and physically and creating all sorts of pressure to transfer the house including cash money of the petitioner in their name. The petitioner has also alleged that quantum of torture and physical assault upon them has increased to the extent that the petitioner has to be admitted to Malda Medical College and Hospital for treatment who is suffering from Heart disease and the old wife of the petitioner also suffered from various old aged diseases. It is pointed out that the Inspector-in-Charge, English Bazar had joined in the Police Station in 24.3.2021, but he had not received any complaint thereafter from the side of

the petitioner directly. As such he could not take any lawful action.

Bearing in mind the nature of the allegations and the complaint, it appears that initially there has been negligence on the part of the then Inspector-in-Charge who was endorsed by the S.D.O., (Sadar), Malda, English Bazar to take necessary action, but no action as such has been taken. It is also pertinent to take note of the fact that since a complaint alleging continuous torture by the son and his wife was made to the S.D.O.(Sadar), Malda, it was expedient on his part to have started action under Section 22 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 which enjoins duties on District Magistrate as may be necessary , to ensure that the provision of the said Act are properly carried out and the District Magistrate may specify the officer, subordinate to him , to exercise all or any of the powers and perform all or any of the duties, so conferred or imposed.

It would be apt to take note of the object and reason of the Act of 2007, enacted by Parliament is to provide maintenance and welfare of parents and senior citizens guaranteed and recognized under the Constitution and for the matters connected and incidental thereto.

Even the SDM/SDO who exercises such powers under the said Act of 2007, has jurisdiction to pass an order of even evicting the respondents in order to ensure that senior citizen live peacefully in their house without being forced to accommodate a son or daughter who physically assaults or mentally harasses them or threaten to dispossess their old parents from their property.

For the reason discussed above, the District Magistrate, Malda is directed to start a specific case against the private respondents under Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and if necessary, the son and the wife of the son, who are wrecking such torture are required to be dealt with under the said Act. I also direct the Superintendent of Police, District Malda and Inspector-in-Charge, English Bazar, Malda to see that senior citizens are protected who are living within their jurisdiction as this Court finds that the Inspector-in-Charge, the then, had failed and neglected in carry out the order of S.D.O. (Sadar), Malda, English Bazar in holding inquiry into the allegations leveled against the private respondents.

The writ petitioner is at liberty to communicate this order with a copy of the writ application to the respondent authority for necessary action.

Accordingly, with the above direction, the writ application being W.P.A. 9871 of 2021 is disposed of.

Urgent certified copy of this order, if applied for, be given to the parties upon compliance of the usual formalities.

(Shivakant Prasad, J.)