

15th November,
2021
(AK)
11

W.P.A 13559 of 2021

Amala Roy
Vs.
The State of West Bengal and others

Ms. Pampa Dey (Dhabal)
...for the petitioner.

Mr. Subhabrata Datta
Mr. Sanatan Panja
...for the State.

Mr. Dhananjay Banerjee
Ms. Oindrila Ghosh
...for the private respondent no.6.

The grievance of the petitioner is that, despite several complaints by the petitioner and a previous order dated June 28, 2021 passed by a co-ordinate Bench in WPA 9889 of 2020 for the Officer-in-Charge, Maheshtala Police Station to keep a regular vigil on the disputed premises and to post a constable outside the same for a period of four days, the private respondent-son has renewed his tortures against the petitioner-elderly mother, who is about sixty nine years old.

Learned counsel appearing for the private respondent controverts such allegations and specifically contends that the private respondent has not been disturbing the petitioner in any manner and, contrary to the allegations made by the petitioner, has not put a

padlock on the area or room where the petitioner is residing.

Learned counsel for the State hands over a written instruction authored by the Officer-in-Charge, Maheshtala Police Station which indicates that a proceeding under Section 107 of the Code of Criminal Procedure, bearing NCR No.456 of 2021, has already been initiated against the respondent no.6 on the basis of the petitioner's complaint.

Upon hearing learned counsel for the parties, it appears that there is a civil dispute as regards the property where both the contesting private parties are residing.

It is submitted by learned counsel for the petitioner as well as the private respondent that, although there has been no partition of the property, the respondent no.6 is residing on the first floor and the petitioner on the ground floor of the disputed premises.

In such a scenario, this court, under Article 226 of the Constitution of India, cannot go into the merits of the civil dispute.

However, insofar as the allegations of putting a padlock illegally on the door of the petitioner's room is concerned and the alleged torture, if any, by the respondent no.6-son is concerned, the police have a duty under the law to give adequate protection to the petitioner in that regard.

As such, WPA 13559 of 2021 is disposed of by directing the respondent no.5, that is, the Officer-in-Charge, Maheshtala Police Station to send adequate police personnel by tomorrow to ascertain as to whether any padlock has been put on the entrance to the petitioner's room on the ground floor, to be identified by the petitioner in presence of the private respondent. The police personnel shall remove any such padlock, if not affixed by the petitioner herself, and facilitate the free ingress and egress of the petitioner in respect of her room on the ground floor of the disputed premises.

That apart, respondent no.5, whenever approached by the petitioner with any grievance of torture on the part of the private respondent and/or others, shall extend adequate police help to the petitioner without unnecessary delay.

It is made clear that the merits of the contentions of the petitioner and the private respondent no.6 on the civil dispute have not been gone into by this court at all.

It will be open to either of the private parties to approach the civil court, in the event resolution of any civil dispute between the two is necessitated.

The parties shall act on the server copies of this order without insisting upon prior production of a certified copy thereof.

The written instruction filed by learned counsel for the State be kept on record.

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.)