

25.10.2021
Court No.7
Item No.7
AD/PM

WPA 14163 of 2021

Dilip Sharma
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

Mr. Debasis Kar,
Mr. Subhajit Chawdhury

... For the petitioner.

Mr. Biswabrata Basu Mallick,
Mr. Raja Saha

... For the State.

Mr. Sovan Mukherjee

... For the respondent Nos. 4 & 5.

Affidavit of service filed in Court is taken on record.

The petitioner contends that he is carrying on business at 133/134, B.T. Road, Baranagar, Kolkata – 700108 for the last twenty seven years in the garage, dealing with manufacturing and repairing works of vehicles and private respondent Nos. 4 and 5 are the lessors who have ousted the petitioner from his possession of the said garage in which huge materials and instruments amounting to Rs.10,00,000/- (rupees ten lakhs) and cash of Rs.5,00,000/- (rupees five lakhs) were lying. In connection with the aforesaid he has also moved an application under Section 144(2) of the Code of Criminal Procedure before the Executive Magistrate, Barrackpore which is numbered as M.P. Case No. 2286 of 2021. It is further contended that the petitioner has made representation before the Commissioner of Police, Barrackpore for respite. On such grounds the petitioner

has taken up this writ application for proper relief as per prayer made in the writ application.

Learned advocate for the petitioner submits that this petitioner is a lawful tenant under the respondent Nos. 4 and 5 and has been carrying on the business for the last twenty seven years. However, taking law into their own hands, the respondent nos. 4 and 5 have ousted the petitioner and finding no other alternative he has approached this Hon'ble Court for proper relief.

Learned advocate appearing for the private respondent Nos. 4 and 5 submitted that there is no iota of documents that the petitioner is a tenant in respect of the said premises and such is supported by the police report annexed to page 17 of the writ application and as such the petitioner has no *locus standi* to file the present writ application.

Learned advocate appearing for the State also submits, in consonance, that the petitioner is not a tenant which is reflecting from the police report and he prays for necessary orders.

Upon going through the writ application and the annexure, this Court finds that there are no such documents showing tenancy of the petitioner. Further, the police report shows that the respondent No. 4 is running a transport business since forty years under the name and style of "Walia Freight Carriers" within the property at 133/134, B.T. Road, under P.S. Baranagar

and last but not the least the entire dispute is civil in nature.

In view of the above and considering the materials discussed above, I am not inclined to admit the writ application and the same stands dismissed.

The writ application is, accordingly, disposed of.

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

(Bivas Pattanayak, J.)