

MAT 1305 of 2021
With
CAN 1 of 2021
Sabir Ali Mallick & Anr.
Vs.
The State of West Bengal & Ors.
(Through Video Conference)

Mr. Anindya Lahiri
Mr. Samrat Dey Paul

... ... for the appellants

Ms. Jayeeta Sinha
Mr. Sandip Mandal

... ... for the State

Mr. Mahammad Mahmud
Ms. Pinki Das
Mr. Sk. Imtiaz Alam

... ... for the respondent nos. 6 & 7

This appeal is at the instance of the son and daughter-in-law (respondent nos. 6 and 7 in the writ petition) of the respondent nos. 6 and 7 herein (writ petitioners) challenging the order of the learned Single Judge dated 02.12.2021 whereby the learned Single Judge has reached to the conclusion that the respondent nos. 6 and 7 herein were tortured and harassed by the appellants.

Learned Single Judge has directed the officer-in-charge, Dhaniakhali Police Station to escort the son and daughter-in-law out of the house of the respondent nos. 6 and 7 along with their belonging within 48 hours. The writ petition has been kept pending and report in respect of compliance of the order has been sought.

Learned counsel for the appellants has submitted that the order dated 02.12.2021 has been complied with and the appellants have been thrown out of the house

where they were residing with the private respondents and now they are on the street as they have no place to live. He has made a limited submission that so far as the appellant no. 1, the son of the private respondents is concerned, he may not be granted any relief at this stage but at least the appellant no. 2, the daughter-in-law and her minor son should be allowed to reside in the house in question. He has assured that they will not cause any inconvenience to the private respondents nor they will create any nuisance or cause any harassment to them.

Learned counsel for the private respondents has also very fairly stated that the private respondents are grand-parents of the minor child of the appellants and they have no objection if the appellant no. 2 and the minor child reside in the house without causing any inconvenience. He has submitted that the main grievance of the private respondents is that they should be protected from any kind of violence by the appellants. He has submitted that the protection is also needed for the other sons, their wives and minor daughters who are residing in the premises.

It has also been stated by the learned counsel for the parties before this Court that there is separate kitchen for the parents and the family of the sons.

Having regard to the above circumstances of the case, we are of the opinion that the interest of justice will be served if the appellant no. 2, i.e. the daughter-in-law of the private respondents along with minor child are

allowed to live in the house in question during the pendency of the petition and subject to the final outcome of the petition on furnishing an undertaking before the learned Single Judge to the effect that she or her minor son will not cause any inconvenience to the private respondents and will also not cause any nuisance to them.

On furnishing the said undertaking before the learned Single Judge the appellant no. 2 along with the minor child will be permitted to reside in the house in question.

The writ petition is still pending. Learned Single Judge is expected to decide the writ petition expeditiously.

The appeal being MAT 1305 of 2021 along with CAN 1 of 2021 are accordingly disposed of.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)