

11 20.04.2021

Ct. No. 02

W.P.A. 8630 of 2020
(Via Video Conference)

SB

Bhajangobinda Roy alias Bhajan Roy
Vs.
The State of West Bengal and Others.

Mr. Jayanta Narayan Chatterjee
Mr. Debasish Banerjee
Mr. Nazir Ahmed
Mr. Supreme Naskar
Ms. Jayashree Patra
Mr. Bibek Dey

..for the petitioner.

Mr. Subhabrata Dutta
Mr. Debasish Sarkar

..for the State of W.B./O.Ps.

Mr. Manas Kumar Barman

.. for the Private Respondent No. 4.

It is the case of the petitioner that he is a senior citizen aged about 80 years. The respondent no. 4, son of the petitioner, has driven the petitioner out from a flat owned by the petitioner and has taken possession himself. Against such illegal acts, the petitioner lodged a complaint before the concerned police station on September 04, 2020, and accordingly, a case was initiated under Sections 448, 380, 341, 506 and 104 of the Indian Penal Code.

The grievance of the petitioner is that in spite of initiation of such criminal proceeding no positive steps have been taken by the police so that the

petitioner can repossess the said flat.

The petitioner also lodged a written complaint before the Controller of Vagrancy on September 09, 2020, for redressal of his grievance. The said authority has also not taken any effective step yet to remedy the grievances of the petitioner.

It appears that the complaint dated September 4, 2020, having been lodged at the instance of the petitioner, the police have registered a case under the relevant provisions of Indian Penal Code. The petitioner sought to activate the police to recover his possession over the flat in question by filing this writ petition. The dispute relating to the possession of the flat in question is civil in nature which could be adjudicated by a civil court. When the dispute is civil in nature, it is not expected that the police authority, in the garb of investigation, will put the petitioner in the possession of the flat by evicting the private respondent without any order from the competent court of law. A mandamus cannot be issued by a writ court in such a case.

As far as the petitioner's representation before the Controller of Vagrancy dated September 09, 2020, is concerned, it is apparent that the petitioner sought to invoke the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007. However,

the representation dated September 09, 2020, does not appear to be in terms of the provisions of the said Act or the rules framed thereunder. A statutory form has been prescribed under the relevant rules, namely West Bengal Maintenance and Welfare of Parents and Senior Citizens Rules, 2008 for filing a petition before the said Controller, but the petitioner has made the application on a plain paper. Therefore, no exception can be taken for not taking any further steps on the basis of such purported application.

The writ petition, in view of the facts as stated above, is disposed of giving liberty upon the petitioner to file a fresh application claiming maintenance in the prescribed statutory form in terms of West Bengal Maintenance and Welfare of Parents and Senior Citizens Rules, 2008 before the Controller of Vagrancy. If such application is filed within a period of one month from date, the Tribunal shall dispose of the said application within a period of four months from date in accordance with the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

Accordingly, the writ petition being WPA No. 8630 of 2020 is disposed of.

(Kausik Chanda, J.)

