

S/L 48
08.06.2022
Court. No. 19
GB

WPA 188 of 2022

Shyamal Kanti Nath
VS
The State of West Bengal & Ors.

*Mr. Sudip Ghosh,
Mr. Abhishek Bose.*

...for the Petitioner.

*Mr. Santanu Mitra,
Mr. Subhabrata Das.*

...for the State.

Ms. Jyoita Ray.

...for the Respondent Nos.5 to 8.

Affidavit-of-service filed in Court today, be kept with the record.

The petitioner submits that the respondent nos.5 to 8 have resisted the petitioner and prevented him from entering into his own house situated at Holding No.9/B, Jamidar Bagan Lane, Serampore.

The allegation is that the respondent nos.5 to 8 are trying to deny the right, title and interest of the petitioner in respect of the premises in question. The petitioner relies upon a deed of gift to demonstrate his title over the premises.

Ms. Ray, learned advocate appearing on behalf of the respondent nos.5 to 8 submits that the parties must reside within their respective shares as per the deed of settlement.

Neither this Court nor the police authorities have any power to decide the manner in which the parties would enjoy their joint property. If the parties have fail to partition the property amicably, the petitioner would be entitled to approach the civil court for a partition. The writ Court can

only intervene if there is any inaction on the part of the police authorities.

From the report filed by the Inspector-in-Charge, Serampore, it appears that SI, Chandan Das enquired into the matter locally and came to learn that the petitioner's brother and his brother's wife occupied the first floor of the house as also the ground floor. The said report is taken on record. The petitioner's younger brother died and the widow is residing with her daughter. The petitioner is residing at Bhopal with his family members. On December 24, 2021 the petitioner and his wife went to visit the house upon intimation to the police. The petitioner was allowed to enter into the house and reside at on first floor.

Although, the petitioner submits that the petitioner was ousted from the residence thereafter, the police authorities deny such allegation. Admittedly, there is a private dispute between the parties over the house in question. Such dispute cannot be resolved either by the writ Court or by the police authorities.

The writ petition is thus disposed of with liberty to the petitioner to approach the police authorities for assistance so that the petitioner may enter into the residential house peacefully. Till the individual shares are determined by the proper civil court, the respective parties shall own and possess their respective shares peacefully.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)