

July 7, 2022
Sl. No. A 294
Court No.1
s.biswas/ssd

FMA 284 of 2022
With
CAN 1 of 2022

Sampa Bera
vs.
The State of West Bengal and others

Ms. Pampa Dey (Dhabal), Advocate
...for the appellant

Affidavit of service filed by the appellant is taken on record.

This appeal is at the instance of the writ petitioner challenging the order of learned Single Judge dated 13.12.2021 whereby WPA 23880 of 2019 has been dismissed.

The appellant had filed the writ petition with the plea that the appellant had entered into an agreement with the respondent No.8 to set up a nursing home in the premises belonging to the appellant for the period 01.01.2013 to 31.12.2022. It is alleged that for certain irregularities in the nursing home, police had registered a case being Bhawanipur Police Station Case No.141 dated 27.04.2016 under Sections 315/344/363/366A/370/ 376/120B of the IPC and thereafter respondent No.5 Assistant Chief Medical Officer of Health, Contai on 18.01.2017 had sealed and put a padlock on the tenanted premises. The case of the appellant is that the private respondent No.8 is not paying rent and the CMOH, Purba Medinipur is not opening the padlock and in this background a prayer was made in the writ petition to unlock the padlock and permit the appellant to enter into her house.

Learned Single Judge after examination of the matter had found that the normal process of eviction of tenant is either in

the provision of the West Bengal Premises Tenancy Act, 1997 and/or the Transfer of Property Act, 1982, hence had granted liberty to the appellant to pursue her remedies.

Submission of learned counsel for the appellant is that the tenant is in police custody and sufficient time has elapsed and the premises is lying under padlock, therefore the appellant is not in a position to take any action.

We are of the view that the premises cannot be kept under padlock for indefinite period of time. Hence, respondent No.5 is directed to consider the issue of revoking his earlier order of keeping the tenanted premises under padlock, within the period of four weeks from the date of receipt of the copy of this order.

We make it clear that on opening the padlock, the possession of the premises in question will be restored to the person from whom it was taken and the appellant will have liberty to take appropriate civil remedies for eviction of the tenant from the premises in question.

The appeal and connected application are accordingly disposed of.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]