

30.08.2022
Sl. No.574(ML)
srm

W.P.A. No. 3130 of 2022

Sitaram Ghosh

Versus

The State of West Bengal & Ors.

Mr. Nilanjan Adhikari

...for the Petitioner.

Mr. Subhabrata Datta,
Mr. Sanatan Panja

...for the State-respondents.

Mr. Uddipan Banerjee

...for the Respondent No.8.

Affidavit of service is taken on record.

The dispute is between a landlord and a tenant. The petitioner prays for a direction upon the police authorities to act on the basis of the complaint of the petitioner and to grant protection in respect of the property situated at LR Dag No.765 pertaining to mouza Jodupur, District-Howrah. Further prayer has been made for a direction upon the police authorities to assist the petitioner in raising a boundary wall around the property in question.

The learned Advocate for the respondent No.8 submits that the said respondent is a tenant in respect of the property in question. That out of his own pocket, he had constructed a restaurant in the said premises. That the

respondent No.8 used to pay rent to the petitioner. During the pandemic, the restaurant was closed and rent could not be paid. Thereafter, the rent was tendered by money order for subsequent months, after the resumption of normalcy. The petitioner refused to accept rent. Instead, the petitioner terminated the tenancy by a notice.

Although, it is contended by the petitioner that the possession was handed over to the petitioner, there is no document showing that the tenancy was surrendered. The contention of the petitioner that the possession was handed over to the petitioner, has been denied by the respondent No.8. The police authorities also submit a report in this regard.

An enquiry was made by the police authorities. The contention of the respondent No.8 appeared to match with those made by the police authorities. The local enquiry revealed that the respondent No.8 was running the restaurant from the said premises. The same was shut down during the '*covid*' period. There appears to be a counter-complaint against the petitioner over which Jagatballavpur Police Station Case No.23 of 2022 dated February 20, 2022 under Sections 448/427/379/506/34 of the Indian Penal Code was registered against the petitioner. The investigation is in

progress. The local enquiry also revealed that such incident had occurred at the instance of the petitioner.

Under such circumstances, as the dispute is between the landlord and the tenant and the question of possession of the petitioner is also doubtful, the police authorities cannot be directed to assist the petitioner in the construction of a boundary wall. It is the specific contention of the tenant, that the tenant is still in possession and the police enquiry reveals that the local persons informed the police authorities that the petitioner was not in possession of the property. The remedy of the petitioner would be before the appropriate forum.

The writ petition is disposed of without any order.

The police authorities shall keep a vigil and ensure that peace is maintained.

There will be no order as to costs.

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

(Shampa Sarkar, J.)