

10.06.2022
Court No. 19
Item no.54
CP

WPA No. 4350 of 2022

Ranibala Dhara
Vs.
The State of West Bengal & ors.

Ms. Papiya Chattopadhyay
....for the petitioner.

Ms. Sipra Mazumdar
Ms. Sangeeta Roy

...for the State.

Affidavit of service is taken on record. Despite service none appears on behalf of the respondent no. 6. Allegations are of police inaction. The respondent No. 6 is the daughter of the petitioner.

The police report indicates that the property in respect of which the petitioner claims possession and a direction upon the police authorities for opening the padlock and further protection, is an undivided property.

The respondent No. 6 lived in the property, since long. She was driven out with her articles. She had used a room for keeping her belongings. Later, there was an amicable settlement between the parties and the respondent no. 6 was allowed to build a room on the said undivided property.

Another agreement was entered into between the petitioner and the respondent no. 6 to the effect that the respondent no. 6 would be allowed to build a house on the land which was left behind by her late father and the pending suit would be withdrawn.

The report states that the respondent no. 6 had put a padlock in the room which was used by the respondent no. 6 and not at the entrance of the portion used by the petitioner/mother. However, a prosecution under Section 107 Cr.P.C. has been filed directing the parties to maintain status quo.

From the police report, it does not appear that the allegation of the petitioner of illegal ouster from the premises, at the behest of the respondent No. 6, is correct. Moreover, the civil court had passed some orders from time to time protecting the right of the petitioner in respect of her portion in the undivided property.

Under such circumstances, the remedy of the petitioner would be to approach the learned civil court for further relief. The right, title, interest, co-sharership etc. shall be decided by the appropriate civil court.

However, as it appears that there is a complaint by the petitioner before the Inspector-in-Charge, Nodakhali Police Station with regard to the illegal ouster, the said complaint shall be disposed of

by the said police authority in accordance with law upon hearing the petitioner as also the respondent no. 6.

This order is being passed in view of the fact that time and again the parties have entered into amicable settlements as to how the property would be enjoyed, but clearly such settlement has not worked.

The writ petition is disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)