

29.11.2022.
Court No.13
Item No. 4
ap

W.P.A. No. 5160 of 2020
Birendranath Mandal
Versus
The State of West Bengal & Ors.

Mrs. Pampa Dey (Dhabal).

...For the petitioner.

Mr. Debasish Ghosh,
Ms. Piyali Sengupta.

...For the State.

Supplementary affidavit filed in Court today be taken on record.

The petitioner seeks enforcement of an order passed by the learned Civil Judge (Junior Division) 2nd Court, Basirhat, North 24 Parganas dated 6th January, 2020 in Title Suit No. 138 of 2010.

By the said order, the Court below had asked the Officer-in-charge, Hingalganj Police Station to submit a report as to whether the defendants in the suit were violating the injunction or not. However, the Officer-in-charge, Hingalganj Police Station did not submit any such report.

Before this Court, the Officer-in-charge, Hingalganj Police Station, Basirhat Police District has submitted instructions addressed to the State Advocate, inter alia, stating that the private respondents are no longer disturbing the petitioner or violating the injunction.

It appears from the said report of the Officer-in-charge, Hingalganj Police Station that in respect of an complaint lodged by the petitioner, FIR Case No. 130 of 2019 dated 10.08.2019 under Sections 447/325/307/354/427/506/34 of the Indian Penal Code was registered and Charge-sheet No. 119 of 2019 dated 30.09.2019 under Sections 447/323/354/506/34 of the Indian Penal Code have been filed.

The petitioner's daughter has also lodged another complaint against the private respondents and NCR Case No. 424 of 2022 dated 18.09.2022 has been registered and proceedings under Section 107 of the Code of Criminal Procedure have been taken out against the private respondents.

The petitioner has also filed a supplementary affidavit indicating that they have been physically ousted from their premises by the private respondents and a complaint to that effect is also filed on 1st September, 2022 with the Superintendent of Police, Basirhat.

Officer-in-charge, Hingalganj Police Station shall register a formal FIR in this regard unless already registered.

The petitioner may file an application in the Court below in the pending suit that shall be taken up by the learned Civil Judge (Junior Division) 2nd Court at Basirhat on 7th December, 2022 and Officer-in-

charge, Hingalganj Police Station shall notify the private respondents of this order.

The learned Civil Judge (Junior Division) 2nd Court at Basirhat shall, after considering the petitioner's application and the report of the Officer-in-charge, Hingalganj Police Station, pass appropriate orders on the police. Such order may include restoration of the petitioner's possession, if he is able to satisfy the Court in that regard.

The Officer-in-charge, Hingalganj Police Station shall also include in his report before the learned Civil Judge (Junior Division) 2nd Court, Basirhat, the truth behind the allegations of the petitioner that he has been outside from his premises.

The learned Civil Judge (Junior Division) 2nd Court, Basirhat shall take an independent decision in the matter.

Officer-in-charge, Hingalganj Police Station shall, however, maintain strict vigil in the area and strictly comply with any order that may be passed by the learned Civil Judge (Junior Division) 2nd Court, Basirhat.

The petitioner shall communicate a server copy of this order to the learned Civil Judge (Junior Division) 2nd Court, Basirhat at once.

With the aforesaid observations, the instant writ petition shall stand disposed of.

The instructions in the form of report of the Officer-in-charge, Hingalganj Police Station addressed to the State Advocate is taken on record.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)