

S/L 146
6.6. 2022
Court. No. 19
sn

WPA 6387 of 2022

Sanjay Kumar Singhania
Vs.
The State of West Bengal & Ors.

Ms. Manju Bhuteria
Mr. Siddhartha Banerjee
Mr. Subhankar Chakraborty
Mr. Saptarshi Bhattacharjee
Ms. Ruchira Manna
... for the Petitioner

Mr. Akash Munshi
..for the respondent no.5

Mr. Samrat Sen
Mr. Tapas Ballav Mandal
..for the State

The petitioner has alleged that the authorities of Panchsayar Police Station have failed and neglected to assist the petitioner while he was trying to enter into his flat situated at Upohar Complex, 86C, Topsia Road, Kolkata 700 046. The petitioner had purchased a flat in the said complex. Thereafter, the petitioner could not reside therein, as the flat was not habitable. The petitioner shifted to another rented accommodation. Later, when the petitioner tried to enter into the premises, the respondent no.5/association allegedly resisted the petitioner from entering the premises.

The petitioner filed a title suit against the respondent no.5 being Title Suit No. 588 of 2021, before the learned Civil Judge (Senior Division) 5th Court at Alipore. An order of ad-interim injunction had

been passed restraining the defendant therein and their men and agents from interfering with the petitioner's peaceful possession and enjoyment of the suit property and further restraining them from preventing the petitioner's access to his own apartment/flat.

It is submitted that the said interim order was extended from time to time. It is alleged that the respondent no.5 continued to resist and disturb the petitioner's possession and the petitioner approached the police authorities for necessary assistance and compliance of the order of the learned Civil Court.

A report has been filed by the Officer-in-Charge, Panchasayar Police Station, East Division, Kolkata, dated October 1, 2021. It appears that the police authorities had visited the complex and the order of the learned Civil Court was also communicated to the respondent no.5.

The facility manager and other members of the association assured the police authorities that the order of the Civil Court was being complied with.

The flat owners' association submitted an application dated March 1, 2021 before the police authorities to that effect, signed by the authorized signatory.

A copy of the letter written by the flat owners' association and the report of the police authorities are taken on record.

As the authorized signatory of the respondent no.5 had categorically written to the officer in charge, Panchasayar Police Station, that the order of the learned Civil Court would be complied with, nothing further remains to be decided in this writ petition. Hence, the writ petition is disposed of without any further orders.

The petitioner shall access his flat as per direction of the learned Civil Court without any hindrance and the police authorities shall ensure such entry into the flat, if the petitioner so requests. The other issues with regard to non-payment of maintenance charges etc. remain open to be decided by the appropriate forum.

This order shall not be construed as an observation either on the merits of the civil suit or on the claim of the association against the petitioner with regard to the unpaid dues towards maintenance. The respondent no.5 will be at liberty to claim the maintenance charges as per law.

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.)