

15.06.2022
Sl. No.62
srm

W.P.A. No. 8068 of 2022

Sukla Kar

Versus

The State of West Bengal & Ors.

Mr. Srikanta Paul

...for the Petitioner.

Mrs. Chama Mookherjee,
Mr. Gourav Das

...for the State-respondents.

Despite service, none appears on behalf of the respondent
No.5. Affidavit of service is taken on record.

Supplementary affidavit filed by the petitioner is also
taken on record.

The petitioner is the step mother of the respondent No.5. It
is claimed that the respondent No.5 has been forcefully
occupying a room in the premises which belonged to the
petitioner's father and was being enjoyed by the petitioner. The
allegation of torture has also been made. The petitioner prays for
a direction upon the police authorities to physically oust the
respondent No.5 from the premises in question.

It appears that the petitioner has already approached the
learned Maintenance Tribunal by filing Maintenance Tribunal
Case No.12/14/SDO of Alipure (Sadar) under Section 5 of the
Maintenance and Welfare of Parents and Senior Citizens Act,

2007. The Tribunal by an order dated December 23, 2014 directed the respondent No.5 not to disturb the peaceful possession of the petitioner in the house. The Officer-in-Charge, Patuli Police Station was directed to ensure that the petitioner could return to the house and stay there peacefully. The matter has been disposed of by the learned Tribunal. The order dated November 23, 2011 passed by the Maintenance Tribunal reveals that the petitioner had been put in possession and the order of the Tribunal had been implemented. The petitioner alleges further ouster.

The petitioner also approached the Criminal Court under the Domestic Violence Act. It appears that the room in the ground floor was allowed to be used by the petitioner. The Officer-in-Charge, Patuli Police Station and the protection officer were directed by the learned Judicial Magistrate, 7th Court, Alipore, South 24-Parganas, to put the petitioner in possession on the ground floor of the premises. Although the petitioner prayed for an order of restrain upon Mrs. Anuja Adhikary (Chakraborty) and Mr. Sourav Chakraborty from taking possession of the room in the said premises, no such order was passed by the learned Judicial Magistrate, 7th Court at Alipore instead the Officer-in-Charge, Patuli Police Station and protection officer were directed to extend all co-operations to effectuate the peaceful entry of the petitioner into the room

situated on the ground floor in exclusion of Mrs. Anuja Adhikary (Chakraborty) and Mr. Sourav Chakraborty.

Under such circumstances, if, the petitioner is aggrieved by any part of the order of the learned Judicial Magistrate, 7th Court at Alipore, the petitioner has the appropriate remedy before the alternative forum. However, the police authorities must comply with the part of the order by which both the learned Tribunal and the learned Judicial Magistrate, 7th Court at Alipore had directed the police authorities to ensure the safe entry of the petitioner and peaceful residence of the petitioner in the room on the ground floor of the premises.

It further appears that the police authorities have already initiated Patuli Police Station Case No.78 of 2022 dated April 20, 2022 under Sections 341, 323 and 141 of the Indian Penal Code against the respondent No.5.

Under such circumstances, the police authorities shall ensure that the respondent No.5 does not create any disturbance with the petitioner's enjoyment of the room in respect of which the learned Tribunal and the learned Judicial Magistrate have directed the police authorities to ensure peaceful possession of the petitioner.

The writ petition is, thus, disposed of.

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.)