

S/L 453(ML)
18.07.2022
Court. No. 19
GB

WPA 8725 of 2022

Sambhu Chandra Mandal
VS
The State of West Bengal & Ors.

*Mr. Rafiul Islam,
Mr. Syed Mosihar Rahman.*

...for the Petitioner.

*Mr. A. Santra,
Md. Galib.*

...for the State.

Mr. Anjan Banerjee.

...for the Respondent No.6.

Affidavit-of-service filed in Court today, be kept with the record.

It appears from the arguments advanced by the learned advocates for the respective parties that the dispute is over right, title, interest and enjoyment of the property in question. While the petitioner claims to be the owner of 5 decimals of land after having transferred 46 decimals in favour of his daughter, the respondent no.6 submits that the petitioner did not have any right, title and interest over any portion of the disputed land in question.

It is submitted by the respondent No.6 that the petitioner cannot claim possession in respect of the lands in question. It is also submitted that a complaint under Section 156(3) of the Code of Criminal Procedure has been filed before the learned jurisdictional Magistrate, by the wife of the respondent no.6, against the petitioner. The allegation is that the petitioner tortured the wife of the said respondent.

The police report is taken on record. Upon enquiry, it was detected that the petitioner has two daughters and one

son. The petitioner used to live with his wife and unmarried younger daughter. The other daughter was married. The petitioner had a piece of land measuring about 51 decimals in Dag No.1191, Mouza-Pichaldaha. On the south-eastern side of the land, the petitioner had constructed two houses containing two rooms each. Previously, the petitioner's son used to live in one of those houses with his wife and children. The petitioner used to live in the other house with his wife and daughter, Swantana Mondal. The respondent no.6 is the owner of an auto rickshaw, and has his own business. A shop near Gujarpur Bus Stand was purchased by the petitioner, which is run by the younger daughter.

Upon enquiry and from the statement of the local witnesses, it was detected that there was a family dispute between the respondent no.6 and the younger daughter, Swantana Mondal. The petitioner had verbally permitted the respondent no.6 to construct a house on the same land, beside the old house. The respondent no.6 constructed a house on the land of the petitioner. Thereafter, the petitioner gifted 46 decimals out of 51 decimals to his two daughters. Swantana Mondal filed a complaint before the Shyampur Police Station on July 16, 2020 against her elder brother, the respondent no.6, alleging that the respondent no.6 had assaulted the petitioner and used abusive language.

On the basis of the complaint of the petitioner, Shyampur Police Station Case No.201 of 2020 dated July 18, 2020 under Section 341/325/326 of the Indian Penal Code was registered against the respondent no.6. After completion

of the investigation, a charge-sheet was filed. The learned Additional Chief Judicial Magistrate, Uluberia had issued a warrant of arrest against the respondent no.6. In order to execute the warrant, several raids were conducted in the house, but the respondent no.6 was absconding. Thereafter, on March 25, 2022 the respondent no.6 surrendered before the learned Additional Chief Judicial Magistrate, Uluberia and he was taken into custody and remanded to judicial custody for some time.

It is submitted by the learned advocate for the respondent no.6 that the said respondent was subsequently released on bail.

On the further complaints of the petitioner, prosecution under Section 107 of the Code of Criminal Procedure, was submitted against the respondent no.6.

Under such circumstances, the grievance of the petitioner has been met. The investigation has been completed. The issue with regard to the right, title, ownership, possession, etc., are to be decided by the appropriate civil court. However, as the petitioner is a senior citizen and has complained of abuse and torture, the police authorities must keep a vigil in order to ensure that the petitioner is not unnecessarily harassed or disturbed in any way by his son and daughter-in-law.

This order shall not have any bearing on the application, which has been allegedly filed before the learned jurisdictional Magistrate by the wife of the respondent no.6 under Section 156(3) of the Code of Criminal Procedure.

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.)