

1.8.2022
Sl.No.9
sn

W.P.A. No. 9244 of 2022
Sushil Kumar Mishra & Anr.
Versus
The State of West Bengal & Ors.

Mr. Amit Baran Das
Ms. Ankana Sarkar ... for the petitioners

Mr. Subhabrata Dutta
Mr. Banibrata Dutta ..for the State

Mr. Buddhadeb Ghosal
Mr. Sanjib Kumar Ghosh ..for the respdts.6&7

Let the supplementary affidavit be taken on record.

The petitioners pray for a Mandamus directing the respondent no.5, that is, the Office-In-Charge, Pragati Maidan Police Station, to take effective steps against the respondent nos. 6&7, who have allegedly evicted the petitioners from the tenanted premises and have illegally placed a padlock at the entrance door.

The petitioners further pray for a direction upon the police authorities to ensure safety and security of the life and properties of the petitioners and further ensure peaceful enjoyment of the tenanted property.

Lastly, it has been prayed that the police authorities be directed to open the padlock, which had been allegedly fixed by the respondent nos. 6&7, over the tenanted property.

The petitioners rely on decisions passed by this Court with regard to the tenant property, allowing the petitioners to repair the tenanted property and also to obtain electricity connection from the CESC Limited. The agreement for tenancy has also been annexed to the writ petition.

It appears that the respondent no.6 had filed two ejectments suits against the petitioner no.1 before the learned Civil Judge, Junior Division, at Alipore. It is further submitted that one of the ejectment suit has been withdrawn by the plaintiffs. In the supplementary affidavit, the petitioners have annexed the plaint of the suit filed by the petitioner no.1 with regard to declaration of tenancy. The same has been registered as Title Suit No. 812 of 2022, which is pending before the learned Civil Judge, Junior Division at Alipore.

Prayers have also been made for a direction upon the landlord to remove the padlock from the main entrance door of the suit property and also remove the sign board of St. Thomas School door, which has been allegedly running from the said premises. Injunction has been prayed for, restraining alienation and creation of third party interest in respect of the alleged tenanted property. It also appears that an application under Section 151 of the Code of Civil Procedure has been filed

before the learned Court below by the petitioner no.1 for removal of the padlock from the entrance door of the suit property and for removal of the sign board of St. Thomas School within 24 hours. The application for injunction as also an application under Section 151 of the Code of Civil Procedure filed by the petitioner no.1 are pending before the learned Civil Court.

Thus, this Court is of the view that the issues which are pending before the learned Civil Court, cannot be re-agitated before this court. This court cannot entertain similar prayers for breaking the padlock in the alleged tenanted premises. This court is only empowered to direct the police authorities to act and proceed in accordance with law on the basis of the complaint filed by the petitioners alleging commission of cognizable offence. It appears that the police authorities have already registered an FIR vide Pragati Maidan Police Case No. 109 of 2022 under Section 448 of the Code of Criminal Procedure. The specific contentions of the petitioners are that some articles belonging to the petitioners are lying within the premises in question.

The police authorities shall conduct the investigation in a free, fair and proper manner and reach the same to its logical conclusion. During the course of investigation, the police authorities shall

ascertain the correctness of such allegations. If articles and other belongings of the petitioners are found to have been detained in the disputed property, the police authorities will take appropriate steps, in accordance with law.

If the petitioners are aggrieved by incorporation of Section 448, only in the FIR, the remedy of the petitioners are before the appropriate jurisdictional Magistrate.

Prayers for opening the padlock and reinstatement of the petitioners in the tenanted premises, cannot be decided in this proceeding. Moreover, parallel proceedings cannot be entertained, as has been decided by this Court in the matter of Manoranjan Ghosh & Ors. versus State of West Bengal & Ors. reported in 2006 (4) CHN 847. This order shall not have any impact on the prayers made in the suit.

The police authorities are ensure that the law and order is maintained and the petitioners are not harassed in any way.

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.)