

05.07.2022
Sl. No.69(ML)
srm

W.P.A. No. 10960 of 2022

Sekh Sayra Banu

Versus

The State of West Bengal & Ors.

Mr. Benazir Ahmed

...for the Petitioner.

Ms. Sutapa Sanyal,
Mr. Anand Farmania

...for the State-respondents.

Mr. Sukanta Chakraborty,
Mr. Anindya Halder

...for the Respondent Nos.6-8, 10-12.

Affidavit-of-service is taken on record.

The police report is taken on record. It appears that on the complaint filed by the petitioner, Panchla Police Station Case No.396 of 2021 dated December 8, 2021 under Sections 341/323/506/34 of the Indian Penal Code had been registered. The respondent Nos.7 to 12 were served notices under Section 41A of the Code of Criminal Procedure. All the said respondents surrendered before the learned Chief Judicial Magistrate, Howrah on March 9, 2022 and they were released on bail. Upon completion of the investigation, charge sheet being Panchla PS Charge Sheet No.45 of 2022 dated February 17, 2022 has been submitted against the respondent Nos.10, 11 and 12. It

also appears that a title suit being Title Suit No.60 of 2021 is pending before the learned Civil Judge (Senior Division), 1st Court at Howrah between the parties for partition and an order of ad interim injunction has been passed against the petitioner and her men and agents restraining them from dispossessing the respondent Nos.7 to 12 in respect of the suit property. The petitioner alleges ouster from the joint property.

The petitioner and the respondent Nos.7 to 12 are co-sharers in respect of the property. With regard to the partition and the demarcation of the respective shares, a civil suit is pending and an order of injunction has been passed against the petitioner and her men and agents. Thus, issues with regard to right, title and interest of the parties are already sub-judice before the learned civil court.

The respondent Nos.7 to 12 submits that they have not created any disturbance with regard to the petitioner's possession of the property in question. It is argued that the intention of the petitioner is to oust the respondent Nos.7 to 12 by using coercive measures including police assistance. They are being forced to agree with the proposal for development of the property.

Having considered the rival contentions, this Court is of the view that the right of the petitioner to reside in the property has not been denied by the respondents Nos. 7 to 12. The demarcation of the respective portions, however, shall be subject to the final decision in the suit.

If the petitioner approaches the Officer-in-Charge, Panchla Police Station on July 8, 2022 at 11:00 a.m., the petitioner shall be escorted back to the house and the police authorities will ensure that the parties reside peacefully.

As no affidavit-in-opposition has been called for, the allegations are deemed to be denied.

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.)