

S/L 36(ML)
03.08.2022
Court. No. 19
GB

WPA 12429 of 2022

Bibhas Naskar
VS
The State of West Bengal & Ors.

Mr. Indra Kant Jha.

...for the Petitioner.

*Mr. Himadri Sikhar Chakraborty,
Mr. Tapan Ray.*

...for the State.

Mr. Suhrid Sur.

...for the Respondent No.4.

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

The petitioner is a developer. The respondent No. 4 is a tenant of the old premises which is to be developed.

The prayers in the writ petition, inter alia, are as follows:-

- a) That the respondents be directed to hand over vacant possession of the shop room, which is yet to be demolished, to facilitate the construction of the newly sanctioned multi-storeyed building.
- b) The police authorities be directed to provide assistance to the petitioner during demolition of the shop room.
- c) The respondents should forthwith hand over peaceful and vacant possession of the shop room situated on the ground floor of the premises and to ensure construction of a new multi-storeyed building upon demolition of the old and dilapidated shop room.

It appears that the respondent no.4 is the tenant in respect of the shop room. An ejectment suit being Ejectment Suit No.108 of 2021 is pending against the respondent no.4 before the learned Additional Civil Judge, 3rd Court at Alipore. It also appears that the respondent no.4 has filed Title Suit No.299 of 2021 for declaration and injunction with regard to the said shop room.

Mr. Chakraborty, learned advocate appearing on behalf of the police authorities has filed a report. It appears that on the complaint of the wife of the petitioner, filed under Section 156(3) of the Code of Criminal Procedure, Lake Police Station Case No.134 dated June 18, 2021 was registered. After completion of the investigation, charge-sheet has been filed.

On the complaint lodged by the respondent no.4, Lake Police Station Case No.147 dated July 5, 2021 was registered and the investigation is in progress.

On another complaint of the respondent no.4, Lake Police Station Case No.125 dated May 3, 2022 was registered and the investigation is in progress.

The petitioner also lodged a complaint and Lake Police Station Case No.129 dated May 7, 2022, under Section 380 of the Indian Penal Code has been registered. The investigation is in progress.

There are allegations and counter-allegations. The police authorities are investigating into the complaints. The prayer of the petitioner for a direction upon the police authorities to hand over vacant possession of the shop room

and assist the petitioner in demolition of the alleged dilapidated shop room for construction of a new building, cannot be permitted in law. The relief, if any, would be available to the parties from the learned civil court, where the suits are pending. The police authorities shall keep a vigil in order to ensure that no untoward incident takes place, in view of the fact that, as many as four investigations into the alleged offences committed by the parties are in progress.

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.)