

04.01.2022
Court No.13
Item No.8
AP

WPA 13749 of 2021

**Smt. Sumita Paine and Anr.
Vs.
The State of West Bengal and Ors.**

(Through Video Conference)

Mrs. Sumita Paine
Mr. Biswarup Paine

... Petitioners in person.

Mr. Ashim Kumar Ganguly
Mr. Ramchandra Guchhait

... For the State.

A peculiar case of a torture by the mother of the petitioner No.1 is before this Court.

The relations among the petitioner No.1 and her mother and her elder brother have a chequered history.

The petitioner No.1 since after the separation from her husband, has been residing in the paternal house along with her son, the 2nd petitioner. The petitioners eke out a living from the maintenance amount received by them from the husband of the petitioner No.1.

In the said paternal house, her mother stays along with the petitioner's older brother who is married and has a child.

Sometime in the year 2016 a competent Court has passed final orders against her mother under the provisions of the Domestic Violence Act, 2005. The Officer-in-Charge, Rishra Police Station has been

directed to give protection to the writ petitioner No.1 and her son.

After the order was implemented there was peace for sometime. However, the parties started confronting each other violently thereafter.

In respect of the complaint filed by the writ petitioner against her mother and her elder brother Rishra Police Station registered a case being Rishra Police Station Case No.6/15 dated 17th January 2015 under sections 341/448/323/427/379/504/506/34 of the Indian Penal Code. This has resulted in a chargesheet.

Learned counsel for the State also submits that in view of a complaint of assault by the private respondent against the writ petitioners Rishra Police Station registered a case being Rishra P.S. Case No.02 of 2022 dated 3rd January 2022 under Sections 341/307/506/34 of the Indian Penal Code.

It is alleged by the writ petitioners that the mother and the elder brother want to deprive them of their shares in the property. The house is standing in the name of the late father of the writ petitioner No.1.

It appears to this Court prima facie that all parties have some share in the house in question. The petitioners reside in a tiled shed in the premises and her mother and her elder brother reside in another portion.

This Court notes that the dispute between the parties can only be resolved in a partition suit where the property can be divided in terms of the respective shares if any, as may be determined by competent Court.

Learned counsel for the State Mr. Ashim Kumar Ganguly very fairly submits before this Court that he shall direct the private respondent to the State Legal Services Authority to enable them to initiate appropriate proceedings. The writ petitioner No.2 is a law graduate and may also avail such legal services.

It is requested that the State Legal Services Authority render appropriate assistance to both the parties. The avenues of mediation may also be explored.

The parties have undertaken before this Court not to confront each other and to maintain peace. The Officer-in-Charge, Rishra Police Station is directed to forthwith intervene and take into custody any person found to be disturbing peace in the same residence.

The Officer-in-Charge, Rishra Police Station shall escort both the parties back into their residence and give a suitable warnings to both of them to ensure that the above order is carried out.

With the aforesaid observations, the writ petition is disposed of.

There shall be no order as to costs.

The reports in the form of instructions to the learned Government Advocate of the Officer-in-Charge, Rishra Police Station, Chandannagar Police Commissionerate dated 21st September 2021 and 4th January 2022 is taken on record.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)