

10.08.2022
Court No. 19
Item no.87 (ML)
CP

W.P.A. No. 13649 of 2022

Sri Arup Das Sharma
Vs.
The State of West Bengal & ors.

Mr. Arijit Sarkar
...for the petitioner.

Mr. Sutanu Chakrabarti
...for the State.

Mr. Sounak Bhattacharya
....for the respondent no. 5.

Affidavit of service is taken on record.

The petitioner alleges that the police authorities have filed an incorrect report before the learned Sub-Divisional Executive Magistrate, Contai, Purba Medinipur dated December 25, 2019. According to the petitioner, the police authorities had completely misconstrued the facts. It is further contended that the respondent nos. 5 to 7 have been trying to dispossess the petitioner, who is a valid tenant of a shop room. The respondent No.5 is trying to reconstruct, upon demolition of the existing building.

Mr. Bhattacharya, learned advocate appears on behalf of the respondent no. 5. He submits that the said respondent filed a suit for eviction. The suit was dismissed. A title appeal was preferred and the

same was also dismissed. Then the respondent no. 5 preferred a second appeal before this court, which is pending.

Mr. Bhattacharya further denies the allegation of forceful dispossession.

The petitioner submits that the right of the petitioner as a tenant has been declared by the civil court and an order of permanent injunction had been passed.

The police report is taken on record. It has been stated that sometime in 2019 and 2020 when the police authorities were directed by the learned Sub-Divisional Executive Magistrate to enquire and file a report, an enquiry was made and prosecution under Section 107 of the Cr.P.C. was submitted against Anil Baran Singha and Sunil Baran Singha.

It is the specific contention of the police authorities that whenever the learned Sub-Divisional Executive Magistrate had passed orders in the proceedings initiated by the petitioner under Section 144(2) of the Cr.P.C., the police authorities enquired into the matter and took adequate steps to ensure that peace is maintained.

Having heard the learned advocates for the respective parties, this court is of the view that the issue with regard to possession and consequent eviction of the petitioner, shall be decided in the

second appeal. The petitioner may also pray for necessary orders in the second appeal for his protection against the alleged disturbance created by the landlord, during pendency of the said appeal.

The police authority shall ensure that peace and tranquility is maintained and the petitioner is not unnecessarily harassed.

The writ petition is accordingly disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)