

03.01.2022

Court No.13

Sl.31

pk

W.P.A. No. 14603 of 2021

Byomkesh Nandy
Versus
State of West Bengal & Ors.

(Through Video Conference)

Mr. Ashim Kumar Routh

...for the petitioner.

Mr. Amitesh Banerjee,
Mr. Tarak Karan

... for the State.

Ms. Malabika Roy Dey

... for the respondent nos. 5 to 7.

The writ petitioner is aggrieved by the fact that he has been thrown out of his house by his wife and daughter. It is submitted that the petitioner had visited the local police station and when he came back he was not allowed to enter into his premises.

It is submitted by counsel for the petitioner that one flat built by him has since been gifted to his daughter. The other flat belongs to his son for which the petitioner claims to have contributed to some extent.

Counsel for the State submits that the petitioner has been found by the local police upon enquiry, to be regularly inflicting physical and mental harm to his wife. The daughter has also been affected in the

process. It is upon their complaint that the petitioner was taken to the police station.

There are other allegations that counsel for the daughter and wife make on the colourful lifestyle of the petitioner. This Court is not concerned with the same as the matter is personal to the petitioner and his family.

The petitioner seeks intervention of this Court to restore him back into his own house.

It is now well settled that the jurisdiction under Article 226 of the Constitution of India is discretionary. Since the petitioner already has remedies inter alia for cancellation of the gift deed in favour of his daughter of the flat in question under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, he may avail the same.

This Court cannot disbelieve the statement of the counsel for the wife that she is not inclined to lodge complaint under onerous and intense sections against her husband keeping in mind the old school beliefs that women in this country of that age usually follow.

The writ petition fails and is hereby dismissed.

There will be no order as to costs.

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

(Rajasekhar Mantha, J.)