

13.07.2022
Sl.No.4(SL)
srm

W.P.A. No. 15202 of 2022

Sk. Sabir

Versus

The State of West Bengal & Ors.

Mr. Bikash Ranjan Bhattacharya,
Mr. Firdous Samim,
Ms. Gopa Biswas,
Ms. Mousumi Hazra,
Mr. Nilanjan Sengupta

... for the Petitioner.

Mr. Subhabrata Dutta,
Mr. Subhabrata Das

...for the State-respondents.

Mr. Akbar Ali

...for the Respondent Nos.6&7.

Mr. Sudeep Sanyal,
Mr. Sukanta Das,
Ms. Lopamudra Moitra

...for the Respondent Nos.10 & 11.

Affidavit-of-service is taken on record.

The petitioner alleges that the respondent Nos.6 to 11 have forcefully entered into the premises in question and tried to dispossess the petitioner and his family members. It is alleged that despite there being an order of ad interim injunction and direction upon the Officer-in-Charge, Tiljala Police Station with regard to implementation of the order of injunction, the police

authorities have failed and neglected to take steps. Hence the writ petition has been filed for appropriate direction.

Mr. Akbar Ali, learned Advocate appears on behalf of the respondent Nos.6 and 7, who are the representatives of one Md. Naim. Md. Naim claims to be a tenant under the predecessor-in-interest of the petitioner and in possession of the tenanted portion of the said property. He submits that the petitioner, emboldened by the order of the learned civil court, tried to oust the tenants and also removed certain valuable articles. It is alleged that the portion of the roof over the tenanted property, was demolished.

According to Mr. Ali, the petitioner has entered into a development agreement with promoters and tried to illegally evict the tenants from the premises in question.

Mr. Sanyal, learned Advocate appearing on behalf of the respondent Nos.10 and 11, submits that the said respondents do not have any interest in the disputed property. According to Mr. Sanyal, the said respondents neither visited the property nor met the petitioner, in order to force him to surrender the property. On the contrary, Mr. Sanyal submits that the petitioner approached the respondent No.10 to find out means to evict the original tenant Md. Naim. Mr. Sanyal

vehemently urges that his clients have been unnecessarily dragged into the proceeding out of personal vendetta and stray allegations have been made against his clients.

Under such circumstances, when the respondent Nos.10 and 11 are specific about the fact that they do not have any interest in the property in question and as the learned civil court has passed necessary orders having found the petitioner (plaintiff) to be in possession, this Court is of the view that the order of the civil court must be complied with.

Mr. Akbar Ali further submits that tenant has already approached the learned court below for vacating the ad interim order of injunction and has filed necessary applications and objections in the proceedings. The issues raised on behalf of the tenants shall be decided by the learned civil court and in any event, all the defendants have been restrained from raising any construction on the premises in question and such order of the civil court must be followed until the said order is either vacated or varied or set aside. The allegation of the tenant that their portion of the tenancy was damaged and they were being wrongfully evicted, shall be decided by the civil court.

Mr. Dutta, learned Advocate appearing on behalf of the State-respondents, submits that pursuant to the

direction of the learned civil court dated June 7, 2022, the order of ad interim injunction has been intimated to all the defendants. He further submits that the allegation of police inaction is completely incorrect. On the basis of the complaint filed by the petitioner dated July 5, 2022, Tiljala Police Station Case No.182 of 2022 has been registered.

Under such circumstances, nothing further remains to be decided in the writ petition, save and except that the investigation, which has been initiated, shall be reached to its logical conclusion and the order of the civil court shall be implemented in its letter and spirit, till the same subsists. The defendants have been restrained from making any construction on the property. The police will ensure that no construction takes place on the premises.

The police authorities will maintain a strict vigil in order to ensure that no untoward incident takes place and the petitioner and his family members are not threatened in any way.

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.)