

11-01-2022
ct no. 13
Sl. 15
sp

**WPA 16943 of 2021
(Through Video Conference)**

Sutapa Saha
-Versus-

Mr. Adhir Sharma & Ors.

**Mr. K. Thaker,
Mr. Debangshu Ghatak**

....for the petitioner

**Mr. Arijit Bardhan,
Ms. Sunita Mukherjee**

...for the respondent no.1

The writ petitioner is aggrieved by the conduct of the private respondent in attempting to take forcible possession of portions of a joint family property.

Admittedly, T.S. 252 of 2020 being suit for partition and administration is pending before the learned Civil Judge (Sr. Division), 1st Court, Barasat.

The respondent no.1 happens to be the Director General & IGP (Railways), West Bengal. It is alleged that the said respondent no.1 has abused his official position and has taken illegal physical possession of a portion of the said property comprised in flat and a garage. He is the husband of Neepa Saha Sharma, the sister of the petitioner.

Admittedly, the said flat was in the possession of a licensee from whom the writ petitioner used to collect rent.

This Court does not wish to enter into the controversy. There is prima facie evidence of the allegation against the respondent no.1 by the writ petitioner.

In that view of the matter, this Court directs the respondent no.1 to forthwith desist from using his possession in any way to interfere with the subject matter of the pending T.S. 252 of 2020.

The parties shall remain restrained from in any way dealing with or dispossessing of or changing the nature and character of the said property, until disposal of the said T.S. 252 of 2020. This order of restraint shall abide by any further order, that the learned Civil Judge (Sr. Division), 1st Court, Barasat may pass in the aforesaid T.S. 252 of 2020, on the basis of any available pleadings or in any changed circumstances or at the discretion of the Court, based on the evidence that may come on record.

The Court below shall proceed to expeditiously dispose of the said suit, preferably within a period of four months from the date of communication of a copy of this order.

The application filed by the wife of the respondent no.1, a co-sharer, under Order 23 of

the Code of Civil Procedure, in T.S. No. 252 of 2020 shall stand dismissed.

The parties may move appropriate proceedings as they may be advised in the Court below.

Since affidavits have not been called, the allegations made in the writ petition against the respondent, to the extent not dealt with in this order, shall not be deemed to have been admitted by them. With the aforesaid observations, the writ petition is disposed of.

There shall 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.)