

08.09.2022
Court No.13
Item No.86
pk

WPA 17118 of 2022

Kalyani Das
Vs.
The State of West Bengal and others

Mr. Uday Sankar Chatterjee,
Mr. Suman Sankar Chatterjee,
Mr. Santanu Maji
...for the petitioner.

Ms. Shikha P. Chowdhury
... for the private respondents.

The writ petitioner complains that the private respondent's son had wrongfully thrown her out of her residence. The property on which the petitioner stayed, comprised of an agricultural land. There is a partition suit pending, filed by the son, inter alia, against the petitioner being T. S. No. 125 of 2021 before the learned Civil Judge (Senior Division), 2nd Additional Court, Burdwan in which an order of injunction has been passed, restraining the parties from, in any way, dealing with or disposing of any portion of the suit premises.

The instant writ petition has been filed on the ground that the son dispossessed the mother completely and she is now staying with her daughter elsewhere. The petitioner also alleges that the son has illegally harvested paddy.

This Court is of the view that the claim of the petitioner in the instant writ petition under Article 226 of the Constitution of India can be limited at best

to right under Article 21 of the Constitution of India.
The petitioner has a right to stay in her property.

Counsel for the son/private respondent submits that he has neither ousted the mother from the property nor is he preventing her from staying there. The petitioner may therefore return to her own residence to live in peace.

The Officer-in-Charge, Raina Police Station shall ensure that the petitioner is able to live in peace in her residence. Insofar as the allegation of the son harvesting the crops of the petitioner, the same is a part of a civil dispute which may be agitated either in the pending civil suit or any other proceeding the petitioner may want to take out against the son. In the event, the petitioner makes an application in accordance with law in the pending civil suit, the same may be disposed of by the civil court as expeditiously as possible.

The writ petition is disposed of

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.)