

08.06.2022
Sl. No.46
srm

W.P.A. No. 21093 of 2021

Arun Kumar Sadhu

Versus

State of West Bengal & Ors.

Mr. Avik Dutta,
Mr. S.N. Biswas

...for the Petitioner.

Mr. Chttapriya Ghosh,
Ms. Priyanka Saha,
Ms. Komal Singh

...for the Respondent No.5.

Mr. Md. Galib,
Mr. Anubrata Santra

...for the State-respondents.

The petitioner is a senior citizen. The allegation is that the petitioner and his wife cannot reside in their own premises situated at 141/23, Lalkuthipara, Ward No.9 of Suri Municipailty, Post Office-Suri, District-Birbhum. That the respondent No.5 had ousted the petitioner and his wife from the said residence.

The petitioner submits that, according to the decision of this Court in WPA No.10835 of 2021 dated July 23, 2021, the petitioner must be allowed to reside at his own house and if need arises, the respondent No.5 should leave. He further submits that the Division Bench of this Court in the matter of Anuradha Agarwal vs. Shiv Shankar Agarwal & Ors. (In Re:

APOT No.105 of 2021) had categorically held that the senior citizen has the right to determine who would be allowed to reside in the premises. The respondent No.5 should be escorted out by the petitioner.

Mr. Ghosh, learned Advocate appearing on behalf of the respondent No.5, submits that a matrimonial dispute cropped up between the son of the petitioner and the respondent No.5. Proceedings under the Protection of Women from Domestic Violence Act, 2005 is pending before the competent court. The Court has allowed maintenance and as the respondent No.5 is already residing in her matrimonial home (shared household) prayers for a separate residential accommodation has not made at the ad interim stage. He further refers to the cross-examination of the petitioner in the proceedings before the learned Criminal Court, to show that the petitioner had himself deposed that he did not wish to live with his daughter-in-law at the premises in question and was wilfully living in a separate household.

Mr. Galib, learned Advocate appearing on behalf of the police authorities, submits that the police authorities had physically visited the residence in order to ascertain the correctness of the complaint of the petitioner. It was found that the ground floor was used by the petitioner for his business purpose and there were four rooms on the first floor.

Two of which were occupied by the respondent No.5 and her child and the other bed rooms were under lock and key. The report filed by the Inspector-in-Charge, Suri Police Station is kept on record.

Mr. Ghosh and Mr. Galib both submit that there was no resistance by the respondent No.5. The petitioner can enter into the household. There was no occasion for the respondent No.5, to drive out the petitioner. The records of the proceedings and the deposition of the petitioner, which have been produced, indicate that the petitioner was not comfortable to live in the same household with the daughter-in-law. There are two special statutes in operation. One for welfare of the senior citizen and other to ensure that women should be protected from domestic violence, and must be allowed to live in the shared household, even if the same did not belong to the husband.

Under such circumstances, when the respondent No.5 through her learned Advocate has categorically submitted that no disrespect or disturbance will be caused to the petitioner and his wife and the police authorities have also found that the rooms which were used by the petitioner and his wife were kept secure under lock and key, this writ petition is disposed of with liberty to the petitioner to enter into the household at any point of time and use the other rooms which

are available on the first floor. The petitioner shall approach the police authorities for necessary assistance. If such approach is made, the police authorities shall ensure the safe entry of the petitioner and his wife to the residential premises. All the parties are directed to maintain peace and tranquillity. Proceedings which are pending before the criminal court shall continue in accordance with law.

It is made clear that once the petitioner and his wife return to the residential house, the relatives of the respondent No.5 shall vacate the premises. The police authorities shall be informed accordingly by the respondent No.5.

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.)