

09.11.2022
Item No.08
Court No.32
Avijit Mitra

**FMA 72 of 2021
with
IA No. CAN 1 of 2020**

**Suraj Kumar Shaw
- Versus -
The State of West Bengal & ors.**

Mr. Tanmoy Mukherjee,
Mr. Souvik Das,
Mr. K. Raihan Ahmed,
Mr. Rudranil Das
...for the appellant
Mr. Subhabrata Datta,
Mr. Banibrata Datta
...for the State
Mr. Ankit Sureka
....for the H.M.C.
Mr. Nilmoni Das
....for the private respondent

The present appeal has been preferred challenging an order dated 17th August, 2017 passed in a writ petition being WPA 21239 of 2017.

Mr. Mukherjee, learned advocate appearing for the appellant/writ petitioner submits that the appellant was a *thika* tenant in respect of a residential room and verandah with common bath and privy in the ground floor of premises being holding no.6, Kali Banerjee Lane, Post Office, Police Station and District-Howrah. The private respondents, with the help of police personnel being the respondent nos. 10 and 11, have forcibly dispossessed the appellant. Aggrieved thereby, the writ petition was preferred.

Placing reliance upon the complaints dated 20th February, 2017 and 21st February, 2017 lodged by the appellant, as annexed at pages 39 and 41 of the stay application, Mr. Mukherjee, submits that the contents of the same were not considered by the learned Court while disposing of the writ petition.

According to him necessary directions ought to have been issued upon the police authorities to take appropriate steps against the said respondent nos. 10 and 11 more so when in reply to an application submitted by the appellant under the Right to Information Act, the competent authority *vide* memo dated 21st July, 2017 stated that no officer from Howrah Police Station was instructed to go to the concerned premises on 20th February, 2017.

Per contra, Mr. Datta, learned advocate appearing for the State respondents submits that no specific complaint was lodged by the appellant against the private respondent nos. 10 and 11 and as such it cannot be argued that the police authorities have failed to discharge their statutory obligations.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

The contents of the complaints dated 20th February, 2017 and 21st February, 2017 do not reveal that any specific allegation was levelled against the respondent nos. 10 and 11. The said complaints appear to have been

filed against the other private respondents. A perusal of the order impugned also does not reveal that any argument was advanced to the effect that the respondent nos. 10 and 11 along with the other private respondents forcibly dispossessed the appellant. The learned Judge, in our opinion, has rightly observed that the issue of alleged dispossession of the appellant involves disputed question of fact and as such the appellant was granted liberty to approach the competent forum. It was also directed that criminal cases registered at the behest of the parties shall also be prosecuted with utmost expedition and be concluded at an early date.

We do not find any infirmity in the order impugned warranting interference of this Court in the present appeal.

Accordingly, the present appeal and the connected application are dismissed.

There shall however be no order as to costs.

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

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)