

May 12, 2022
Sl. No. 20
Court No.1
PA - RB

**FMA 40 of 2022
with
CAN 1 of 2020
with
CAN 2 of 2021
with
CAN 3 of 2022**

Sanjukta Samanta (Dutta)
vs.
State of West Bengal and Others

Ms. Sanjukta Samanta (Dutta), in-person
Mr. Giasul Islam, Advocates
... for the appellant

Mr. S. Chakraborty, Advocate
... for the respondent nos. 8 & 9

Mr. Sirsanya Bandopadhyay, Jr. Standing Counsel
Mr. Arka Kumar Nag, Advocates
... for the State

By this appeal, writ petitioner has challenged the order of the learned Single Judge dated 13th October, 2020 whereby WPA 7382 of 2020 filed by the appellant has been dismissed *in limine*.

Appellant is the daughter-in-law of the respondent no. 8, Sri Samiran Dutta and respondent no. 9, Smt. Munmun Dutta. The petitioner is married to Sri Romit Dutta, the son of respondent nos. 8 and 9. The writ petition contains the details of strained relations between the parties and the criminal cases filed by the petitioner and respondent nos. 8 and 9 against each other. Various prayers of different nature have been made in the petition

but the main issue highlighted is about the alleged eviction of the petitioner from the matrimonial home.

Learned Single Judge has reached to the conclusion that the writ petition filed by the petitioner is a counter-blast to the respondent no. 8, senior citizen, taking recourse to the law for the wrongful action of his son and daughter-in-law. Hence, the learned Single Judge has refused to interfere in the matter.

Submission of the learned Counsel for the appellant is that the appellant has been evicted from the matrimonial house by police force, therefore, she is required to be reinstated, whereas, the learned Counsel for the respondents has opposed this submission by denying any such forcible eviction by the police force.

Having heard the learned Counsel for the parties and on perusal of the record, it is noticed that the writ petition lacks clear pleading in respect of the eviction of the appellant by police force. A perusal of affidavit-in-opposition filed on behalf of the respondent nos. 1 to 7 reveals that on the alleged date, i.e., on 09th July, 2020, a report was made by the respondent no. 8 to the police that he was denied entry in his house by the appellant and her husband. Therefore, the police had gone to the residence but the appellant and her husband were not found and the respondent no. 8 could enter his house. Thus, the very factum of alleged eviction of the appellant

is a disputed question of fact which cannot be gone into in writ jurisdiction.

Having regard to the aforesaid, we are of the opinion that the learned Single Judge has not committed any error in declining to interfere in this writ petition. The appellant is seeking to raise a private dispute and claimed substantial relief against the private respondent in writ jurisdiction which is not permissible. Hence, we do not find any error in the order of the learned Single Judge, therefore, the appeal is dismissed.

[Prakash Shrivastava, C.J.]

[Krishna Rao, J.]