

OD-4

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
SPECIAL CIVIL JURISDICTION (CONTEMPT)
ORIGINAL SIDE

CC/75/2022
WPO 2188 of 2022
CYRIL SHIRAJ GOMES
VERSUS
MRS. NIRMOLA GOMES AND ANR.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 16th December, 2022.

Appearance:

Mr. Parashar Baidya, Adv.

Ms. Sanjana Basu, Adv.

For the petitioner.

The Court:- The contempt application is not maintainable.

The petitioner was the respondent no.5 in WPO/2188/2022.

WPO/2188/2022 was filed by one Mrs. Nirmola Gomes, mother of the applicant. She prayed for direction upon the police authorities to take steps on the basis of her complaint. The dispute was with regard to possession of a flat allegedly belonging to the applicant. Allegation was that the applicant had stopped the writ petitioner and her daughter from entering the house.

In the course of arguments this Court found that the dispute was with regard to taking over possession of a flat. The writ petitioner (mother) claimed possessory rights over the flat.

It was an admitted position that the writ petitioner was not in possession of the said flat in question when the writ petition was been moved. She prayed that the police authority may be directed to put her back in possession of the said flat.

At the time of hearing the writ petitioner also contended that her valuable belongings were in the flat. The applicant had submitted before the Court that he did not have any objection if his mother would reside with him and also took her belongings from the said flat.

However, the writ court could not decide on the arrangements to be made between the son, mother and sisters with regard to the use of their property. The writ petition was disposed of with the following order:-

“With regard to the articles in the flat, the learned advocate for the son submits that the petitioner is at liberty to enter into the said flat with police assistance and take all her belongings.

If the petitioner approaches the police for assistance, the police will be present during removal of all the articles, upon ensuring presence of the respondent no.5. The date and time will be fixed by the police. Thereafter, the flat shall be sealed by the police and keys shall be handed over to the respondent no.5. The removal of the articles shall be videographed and an inventory of the articles shall be made by the police authority. A copy of such inventory shall be

supplied to the parties. A declaration shall be given by the petitioner, after she removes the articles. The petitioner is still at liberty to live with her son. The son has submitted before the Court that he will take every responsibility of the mother. The writ court cannot intervene further and the police authority cannot play a role in a family dispute, except attempting an amicable settlement.

The son and daughter-in-law, the respondent nos. 5 and 6, shall intimate the local police station in case the petitioner starts residing with them at their present address. The local police station shall keep a vigil to ensure that the elderly lady is looked after well by the son and daughter-in-law. All other issues including the allegations and counter allegations are not entertained by the Court.”

Thus, the issue of inaction of the police authorities was decided and disposed of by this Court by directing the police authorities to provide police assistance to the writ petitioner (mother of the applicant) during the course of removal of articles. The procedure to be followed during the process of such removal, was also indicated in the order.

According to the applicant, the writ petitioner (mother) had subsequently taken possession of the flat, without intimating the police authorities.

Such subsequent development cannot give rise to a contempt application. The Court had passed certain directions upon the police authorities to assist the writ petitioner (mother) while she removed her belongings from the flat. There are no allegations against the police authorities. The dispute between mother and son has to be adjudicated in a different proceeding. There is no contemptuous action by the police authorities.

CC No. 75 of 2022 in WPO No. 2188 of 2022 is disposed of accordingly.

(SHAMPA SARKAR, J)

snn.