

08.02.2023  
Court No.13  
Item No.333  
AP

**WPA 2034 of 2023**

**Smt. Minati Karmakar  
Vs.  
State of West Bengal and Ors.**

Mr. Sayantan Adhya

... For the Petitioner.

Supplementary affidavit filed by the petitioner is taken on record.

The petitioner is seeking protection against any further damage from the private respondent. The brief facts of the case are that a shop room was gifted by the husband of the petitioner to her. After the death of the petitioner and her husband, the possession of the shop room is supposed to pass on to private respondent/son Subir Karmakar.

The petitioner approached the Executive Magistrate under Section 145(4) of the CrPC. By an order dated 14<sup>th</sup> January, 2021 the Executive Magistrate has directed the Belgharia Police Station to ensure that the petitioner's possession of the shop room is not disturbed.

It is submitted that the private respondent son has taken over possession of the shop room forcibly and has threatened and intimidated the petitioner and her husband. The petitioner has also been assaulted by the private respondent. The petitioner and her husband are living in fear and have no other source of income.

The Officer-in-Charge, Belghoria Police Station, Barrackpore Police Commissionerate has filed a report dated 7<sup>th</sup> February, 2023 and the same is taken on record.

It appears from the report that on the complaint of the petitioner and at the direction of the Magistrate under Section 156(3) of the CrPC, FIR was registered against the son Subir Karmakar and the daughter-in-law Swati Karmakar and the same has resulted in Charge Sheet being Belghoria Police Station Charge Sheet No.454 of 2020 dated 31<sup>st</sup> October, 2020 under Sections 341, 447, 323, 506, 34 of the IPC.

Another complaint was received from the petitioner and at the directions of the Magistrate under Section 156(3) of the CrPC, FIR was registered against the son Subir Karmakar and the daughter-in-law Swati Karmakar which has resulted in Charge Sheet being Belghoria Police Station Charge Sheet No.380 of 2020 dated 30<sup>th</sup> September, 2020.

The daughter-in-law, in response, also registered a complaint against the petitioner and her husband. FIR has been registered which has resulted in Charge Sheet being Belghoria Police Station Charge Sheet No.595 of 2020 dated 31<sup>st</sup> December, 2020 under Sections 498A, 323, 506, 34 of the IPC.

The private respondents/son and daughter-in-law have also filed a civil suit being Title Suit No.21 of 2021 before the learned Civil Judge (Junior Division), 2<sup>nd</sup> Court, Barrackpore. In the said suit an ad interim injunction has been ordered restraining the petitioner and her husband from disturbing the son and his peaceful possession of the suit property. The matter is next fixed on 20<sup>th</sup> February, 2023.

The remedy of the petitioner is before the Civil Court.

It is ordered that the Civil Court shall consider the title of the private respondent to the property in question keeping in mind the fact that the petitioner, who was in possession of the property being a shop room in question, has been forcibly dispossessed.

The petitioner may file appropriate counter claim or any other civil proceedings to seek relief of return of shop room against the private respondent before the Civil Court.

In the meantime the Officer-in-Charge, Dakshineswar Police Station shall ensure that the petitioner and her husband are not in any way harm by the private respondent son or the daughter-in-law. A constable shall be posted at the petitioner's residence for a period of one week. Sufficient warning shall be issued to the private respondents/son and the daughter-in-law against harming the petitioner or her husband.

With the aforesaid directions, the writ petition shall stand disposed of.

There shall 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.)**