

22.03.2023
Court No.13
Item No.21
pk

WPA 5135 of 2023

**Sri Sunil Kanti Choudhury and another
Vs.
The State of West Bengal & Ors.**

Mr. Tapas Kumar Bhattacharya,
Mr. Aviroop Bhattacharya

... For the Petitioners.

Ms. Chaitali Bhattacharya,
Mr. Subhendu Roy Chowdhury

... For the State.

Ms. Karabi Roy

... For the respondent nos. 5, 6, and 8.

Mr. Subhrojyoti Ghosh

... For the respondent no. 7.

The writ petitioners are husband and wife, aged about 89 and 72 years respectively. The complaint is that the respondent nos. 5, 6 and 8 have tortured them and ousted them from the said premises. The premises stands in the name of the petitioner no. 1 and his brothers. The respondent no. 8 lives separately. The respondent no. 5 is first son and is unemployed. The respondent no. 6 is the wife of the respondent no. 5.

The respondent nos. 5 and 6 have lodged a complaint under Section 498A against the petitioners. FIR has been registered and is being investigated. The petitioners have lodged a complaint of assault against the private respondents which has been inquired into by the Kotwali Police Station.

Admittedly, the house comprises of a ground floor, first floor and second floor. There are four rooms on the ground floor. The petitioner and his wife shall exclusively occupy the ground floor. The respondent nos. 5 and 6 shall occupy the first floor. Both the floors are equipped with independent kitchen and toilet. The respondent nos. 5 and 6 shall stay in one room available on the first floor. The respondent nos. 5 and 6 shall be entitled to use bathroom and the kitchen in the first floor.

The other two rooms are under the occupation of the 8th respondent.

The petitioners shall exclusively use the entire ground floor. The respondent nos. 5 and 6 shall not disturb the petitioners.

The O. C., Kotwali Police Station shall keep regular vigil on the said premises and ensure that there is no breach of peace in the house. In the event of any further complaint against the private respondents, Kotwali Police Station shall be entitled to take coercive measures against them.

The petitioner shall be escorted into their house by an official of the Kotwali Police Station. The respondent no. 7 is not interested in entering into the premises and shall not do so.

The aforesaid order shall not create any civil rights in the property in favour of the private respondents contrary to law.

The writ petition is disposed of.

There will 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.)