

D/L
Item No. 10
14.07.2023
KOLE

WPA 9220 of 2023

Parul Bala Ghosh
-Vs.-
The State of West Bengal & Ors.

Mr. Sarwar Jahan,
Mr. S. Hazra,

...for the petitioner.

Mr. Asish Kumar Guha,
Mr. R. Chaturvedi,

...for the State.

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities specially the respondent no. 4 to take appropriate steps to remove the obstructions by breaking the lock of the door of the room of the petitioner and to ensure handing over peaceful possession of the room to the petitioner.

Report filed on behalf of the State is taken on record.

It appears that the private respondents were duly intimated about the pendency of this matter. Yet, they have chosen not to appear.

Learned Counsel appearing on behalf of the petitioner submits as follows. A partition suit was filed in respect of the property in question and final decree was also passed. Accordingly, the petitioner started residing in the portion allotted to her family. In the meantime, the petitioner's husband and her two sons passed away. Therefore, she is presently residing there with her two daughters in law. In 2019, the private respondents tried to raise a dispute regarding demarcation of the property. The Municipal

Authorities had to be brought in. A demarcation was done. Everyone appended their signatures. Yet, the private respondents continued to create trouble. In December, 2022, the private respondents put up a padlock on the portion of the premises where the present persons were staying. This was immediately brought to the notice of the Police, but no effective action was taken.

Learned Counsel appearing for the State submits that after getting complaint from the petitioner, the police initiated a proceeding under Section 107 of the Code.

I have heard learned counsel for the parties and have perused the writ petition and the report submitted by the State.

It appears that a partition suit was filed and a final decree was passed that even demarcation was done pursuant to certain disputes raised by the private respondents. But, the private respondents are bent upon not to pay any heed even to an order of a competent Court.

Putting a padlock in someone else's room does not even amount to taking effective possession of the same. It is merely a mischief to harass the occupant.

It will be a failure of justice if the present petitioner, a widow staying there with her two widowed daughters in law to approach a civil court for appropriate relief.

In view of the above and in the interest of justice, I direct the respondent police authorities to break open the padlock unlawfully put on the door of the petitioner's room and allow necessary police assistance so that the petitioner and her two daughters in law can enter the room so as to stay

there. The same has to be done within a week from this date upon notice to the petitioner.

With these observations, the writ petition stands disposed of.

Since affidavits have not called for, the allegations made in the writ petition are deemed not to be admitted by the respondents.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)