

06.07.2023
Item No.18
gd/ssd

MAT/942/2023
IA NO: CAN/1/2023
SUSMITA ROY (SARKAR)
VS
TAPATI ROY AND ORS.

Mr. Ramkrishna Bhattacharyya,
Mr. K. Choudhury,
Mr. Gourhari Das
..for the Appellant.

Ms. Amrita Panja Moulick
..for the State.

Mr. Sayan De,
Mr. Kaustav Shome,
Mr. sayan Kanjilal
..for the Respondent No.1.

1. This intra court appeal is directed against the order dated 27.04.2023 in WPA 28886 of 2022.

2. The appellant is the daughter-in-law of the writ petitioner and is aggrieved by the said order wherein a positive direction has been issued that the appellant shall remove all their articles and belongings from the house in question and such removal shall be done in the presence of the writ petitioner or any of her representatives. The Raiganj Police Station was directed to depute a lady constable to be present at the time of removal of the articles.

3. In our considered view, such a direction could not have been issued in a writ petition and the fact that the appellant was residing in the very same

premises is clear from the fact that a direction has been issued to evict the appellant from the premises. Therefore, the order and direction issued by the learned writ court is wholly beyond the jurisdiction conferred on the court under Article 226 of the Constitution.

4. Therefore, the appeal is allowed and the order dated 27.04.2023 is set aside.

5. We leave it open to the appellant and the respondent to work out their rights before the appropriate forum in accordance with law.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)