

06-10-2023
Item No.15
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.14838 of 2023
Sri Samar Pal & Anr.
-vs-
State of West Bengal & Ors.

Mr. Tanmay Basu
Mr. Shamik Bagchi
Mr. Subhjoyti Halder ...for the petitioners

Mr. Md. Sk. Galib
Mr. Gourav Das ...for the State

Affidavit of service filed in court be taken on record. It does not appear that the private respondents could be served with notice.

However, a report filed on behalf of the State is also taken on record.

It appears from the report that after filing of the writ petition, the private respondents – son and daughter-in-law of the petitioner no.1 – came to the police station and undertook that they had no problem if the petitioners came back home.

Learned counsel for the petitioners submits as follows. The petitioners are the parents of the fifth respondent and parents-in-law of the sixth respondent respectively. The petitioners are the joint owners of the property in question. The private respondents no.5 and 6 have been trying to pressurize the petitioners to give the property to them. In fact, the said private respondents assaulted the petitioners and hit the first petitioner so hard on his head with a stick that he had to

be treated in the hospital. He was constrained to lodge an FIR in this regard before the local police station. Thereafter, the said private respondents have ousted the petitioners from their own residence.

Learned counsel for the State relies on the report and submits that on the complaint of the petitioner no.1, a specific FIR has been lodged being Karimpur PS Case No.88 of 2023 dated April 13, 2023. Earlier the daughter-in-law had lodged an FIR against the petitioners, inter alia, under section 498A IPC in which a charge-sheet was submitted. The private respondents have undertaken that they have no problem if the parents come home. Although the petitioner no.1 was assured that they would be provided necessary assistance for residing peacefully in the house, he did not agree and left the police station. He wants the son and daughter-in-law to be evicted from the house.

As the petitioners are the absolutely owners of the property in question, the son and daughter-in-law would live in the said house only as the licensees. The petitioners have every right to take necessary steps for their eviction in accordance with law.

However, since the petitioners are the owners of the property in question and had been residing there and have allegedly be driven out by the private respondents, at this advanced age, they need not be relegated to the civil court for obtaining a relief for returning home.

Let the petitioners intimate the officer-in-charge of Karimpur police station about their intended date and time of return with a 24-hours' notice. The officer-in-charge in turn shall take necessary measure so that the police escort can be provided to the petitioners for

returning to their own house. The return of the petitioners to their own home shall be videographed.

Even thereafter, the police authorities shall keep the same vigil at the locale and see that no breach of peace takes place. If any untoward incidents takes place or is apprehended by the petitioners, they shall be at liberty to inform the officer-in-charge of the local police station who shall then take steps in accordance with law.

With the observations as above, WPA No.14838 of 2023 is disposed of.

Certified copy of this order, if applied for, shall be made available to the parties.

[Jay Sengupta, J]

