

25.07.2023
Item No. 11
BR

WPA 15778 of 2023

Juthika Paul

-VS

The State of West Bengal & Ors.

Mr. Amitabha Ghosh

.... For the petitioner

Mr. Amitesh Banerjee,

Mr. Suddhadeb Adak

.... For the State

Mr.Souvik Mitra,

Ms. Subhasri Chatterjee,

..... For the Pvt. Respondent

Nos. 5 to 8

This is an application under Article 226 of the Constitution of India praying for direction upon the respondent authoritis , especially the respondent no. 4 to show cause as to why the respondent no. 3 should not be directed to shift the investigation of Tala Police Station Case No. 30 dated 21.5.2023 and Tala Police Station Case No. 37 dated 14.6.2023 to separate investigation agency, preferably the CBI and also to show cause as to why

departmental enquiry against the concerned investigating officer should not be initiated.

Learned counsel appearing on behalf of the petitioner and submits as follows. There are some inadvertent defects in the writ petition. Due to inadvertence, it was wrongly alleged that the Police Officers of the Tala Police Station in connivance with the private respondents had the petitioners come to the police station in a group so that the private respondents could dispossess them from the ancestral property. However, it is the petitioner's grievance that the private respondents, after demise of the mother of the petitioner have dispossessed them from the property.

Learned Senior Standing Counsel appearing on behalf of the State relies on the report, which is taken on record, and submits as follows. The allegations made by the petitioner are absolutely false that the Officer of the Tala Police Station had any role in the alleged dispossession of the petitioner from her ancestral property. However, the Officer-in-Charge of the Investigating Officer of the case are

present in Court pursuant to a direction passed. Actually a notice was sent by the respondent police authorities for the petitioner and her relatives to appear, but the son did not come. Only the petitioner and her daughter appeared. The son was there at home when he decided to go out for some time. It was then that the alleged dispossession took place. The police authorities have nothing to do with it.

Learned counsel appearing on behalf of the private respondents submits as follows. The petitioner and the family members never stayed at the joint property in question although, undoubtedly she is a co-sharer in the said property. She used to come look after her mother who subsequently passed away. The petitioner has actually put a padlock on the door of the room occupied by the mother. The private respondents would not have any objection if such room is used in common by all the co-sharers including the present petitioner.

I have heard the learned counsel for the parties and have perused the

writ petition and report filed by the State.

It appears that certain wrong averments were made by the petitioner through the erstwhile learned advocate. That is why perhaps the petitioner is being represented by his new set of lawyers. However, the harm has already been done. Averments made prompted this Court to ask the Investigating Officer and Officer-in-Charge of the local police station to appear in person.

The appearance of the Officers is noted and is dispensed with.

The petitioner shall be at liberty to take appropriate steps before the Court of law for recovery of possession.

However, the undertaking of the private respondent is noted that the room that was being occupied by the mother could be used in common by all the co-sharers.

In the event the petitioner had kept any valuable documents in the said room they shall be at liberty to access and take the same.

The respondent police authorities shall be kept a vigil at the locale and ensure that no breach of peace takes place.

==

With these observations, the writ petition is disposed of .

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

(Jay Sengupta, J.)