

5
08.08.2023
ssi

Ct 14

WPA 15916 of 2023

Niranjan Mahata

-vs-

State of West Bengal & ors.

Mr. D. K. Adhikari
Mr. Debdip Adhikari
...for the petitioner
Mr. Ashim Kr. Ganguly
Ms. Jyotsna Roy Mukherjee
...for respondent nos. 1 to 5
Ms. Tannistha Bandyopadhyay
...for respondent nos. 6 to 9

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to start a case against the private respondent nos. 6 to 10 as per the petitioner's complaint dated 15.05.2022 and to render police help so that the petitioner can enter into his own house at Vidyasagarpally, Jhargram and live peacefully.

Copies of a certificate of enlistment under the Jhargram Municipality and the plaint in a matrimonial suit filed by the husband, as filed on behalf of the private respondents, are taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the owner of the property in question which includes a residential house and a shop. Yet, he is being denied entry by his wife and her

brothers. The petitioner does not have any other place to reside. The story tried to be foisted by the private respondents that the petitioner was having an affair and was trying to bring her paramour to the said house is absolutely false. Police had taken no action on the complaints filed by the petitioner.

Learned counsel appearing on behalf of the private respondent nos. 6 to 9 submits as follows. She is appearing in this matter for the first time and is not aware of the submissions made by another counsel who had appeared for the private respondents earlier. The private respondents have not cause any hindrance whatsoever to the petitioner in coming into his own house. In fact, the couple can very well stay together in the same property. However, the private respondent no.6 has also a trade licence in respect of the shop room in question. The private respondents undertake not to cause any hindrance to the petitioner if he wants to enter his own house.

Learned counsel appearing on behalf of the State relies on the report filed earlier and submits that the police have already taken action on a complaint of the petitioner, initiated a proceeding under Section 107 of the Code. An FIR was also registered and some of the accused were arrested.

I have heard the submissions of the learned counsels for the parties and have perused the writ petition, the report filed by the State and the copies of documents filed by the private respondent nos. 6 to 9.

It appears that a dispute does exist regarding who is running the business at the shop room. This is purely a civil dispute and any of the parties can pray for necessary relief before the Civil Court.

So far as the complaint filed by the petitioner is concerned, the police have already taken steps in terms of initiating a proceeding under Section 107 of the Code and registering an FIR.

In view of the respective submissions made by the private parties that the petitioner was not intending to commit any immoral act at the said premises and the private respondents were also not causing any hindrance to the entry of the petitioner into his own house, there would be no problem if the petitioner wants to enter into his own house and stay there.

To ensure that no breach of peace takes place when the petitioner enters into his own house for the first time, he shall intimate the Officer in Charge of the local police station about the same and on a 24 hours' notice, the police shall be present at the said premises when the petitioner shall enter his residence.

No further order needs to be passed in this writ petition.

However, the respondent police authorities shall keep a sharp vigil at the locale and ensure that no breach of peace takes place and that no harm is done to either the petitioner or the private respondents.

With these observations, the writ petition is thus disposed of.

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

(Jay Sengupta, J.)