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20.07.2023
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Ct 14

WPA 16073 of 2023

Md. Abdus Salam @ Abdus Salam & anr..

-vs-

State of West Bengal & ors.

Mr. Anindya Halder

Mr. S. Biswas

Ms. Puja Goswami

..for the petitioners

Mr. Ansar Mondal

Mr. Kazi Sajjad Alam

...for the State

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to take proper steps against the accused/private respondents and to command them to act in accordance with law.

Affidavit of service filed on behalf of the petitioners is taken on record.

It appears that notice could not be served as the door was locked but intimation was served. Yet, no one represents the private respondent.

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

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioners are the parents of the respondent no.5. The respondent no.6 is the wife of the respondent no.5. Both the private respondents have tortured

the present petitioners who are the owners of the property in question and drove them out of their own residence. This prompted to the petitioners to approach the Maintenance Tribunal. By an order dated 28.07.2022 in Maintenance Tribunal Case No. 04 of 2022, the Tribunal directed as under:- “ It is ordered to the OP member to vacate the residence of the petitioner within 15 days on receipt of this order. The Inspector-in-Charge, Kulti Police Station is directed to ensure compliance of this order to evict the OP members from the residence of the petitioner, and also keep strict vigil over the issue, submit report within one month.” In spite of this, the local police authority did not render police assistance so that the petitioners could go back home. The petitioners lodged a complaint before the police authorities but no effective steps were taken.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. The dispute is primarily between family members. After the order was passed by the Maintenance Tribunal, the private respondents filed a petition before the learned Session Court but the same was dismissed for non-appearance. However, no further order was passed by the learned Maintenance Tribunal to put the petitioners in possession of the property. However, on the complaint of the petitioner no.2, a case was started being Kulti PS Case No. 188 dated 03.04.2023 and the respondent no.5 was arrested.

I have heard the submissions of the learned counsels

for the parties and have perused the writ petition and the report filed by the State.

It appears that there was a categorical direction of the learned Maintenance Tribunal that the Inspector in Charge of Kulti Police Station was to ensure compliance of the order to evict the opposite party no.2 from the residence of the petitioners and also to keep a strict vigil over the issue. This order was not interfered with by any superior Court.

Therefore, let the respondent authorities, especially the respondent no.4, comply with the order passed by the Maintenance Tribunal. The respondent authorities shall also see to it that the petitioners can enter into their residence and keep a vigil so that no one disturb their peaceful possession and property.

With these observations, the writ petition is disposed of.

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

(Jay Sengupta, J.)