

49 19.07.2023
NB Ct. 14

WPA 16371 of 2023

Smt. Bharati Ghosh
Vs.
The State of West Bengal & Ors.

Mr. Kalyan Kumar Panda,
Mr. Nirmalya Dhara.
...for the petitioner.

Mr. Somnath Ganguli, Id. AGP,
Mr. Siddhartha Ghosh.
...for the State.

Mr. Ansuman Bera.
...for the respondent nos.6 to 8.

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to provide adequate protection to the petitioner so that the petitioner may live at her property peacefully and without hindrance and to take steps against the private respondent nos.6 to 8 in accordance with law.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is an aged lady and after her husband's demise, she is 1/4th shareholder of movable and immovable properties left behind by her husband along with her three sons being respondent nos.6 to 8. Soon after her husband's demise, the three sons threw her out of her house. She was constrained to take shelter at her brother's place. She wants police assistance to return to her own home.

Learned counsel appearing on behalf of the private respondent submits as follows. The private respondents have not thrown out the present petitioner from her residence. She

had voluntarily left the house quite some time ago. In fact, earlier she had lodged an FIR, inter alia, under Section 498A of the Penal Code against her husband when he was living and her one son. The private respondents have no objection if their mother wants to return to their home.

Learned counsel appearing on behalf of the State files a report, which is taken on record, and submits as follows. The dispute between the family members is absolutely civil in nature. However, a proceeding was initiated by the police authorities on the complaint of the present petitioner under Section 107 of the Code of Criminal Procedure.

I have heard the submissions of the learned counsels appearing on behalf of the parties and have perused the writ petition and the report filed by the State.

On one hand, the petitioner alleges that she was driven out of the property by her three sons. On the other, the private respondents allege that earlier their mother had filed an FIR, inter alia, under Section 498A of the Penal Code, against her husband when he was alive and one son. Therefore, there is an existing animosity between the private parties.

However, this is no reason why an aged lady would not be able to stay at the residence of her husband (since deceased) and for this, she should not be relegated to approach a civil forum.

Fortunately, it is submitted on behalf of the private respondents that they have no objection if their mother returns to their home.

At this stage, learned counsel for the petitioner submits that the petitioner would like to return home tomorrow itself at 5p.m.

In view of the above and in the interest of justice, I direct that the respondent police authorities shall render adequate police assistance so that the petitioner can return to her own home tomorrow at 5 p.m. Even after she gets settled down, the respondent authorities shall keep a sharp vigil at the locale and to see that no harm or breach of peace takes place.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

Parties shall act on a server copy of the order obtained from the official website of High Court at Calcutta.

(Jay Sengupta, J.)