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Ct 14

WPA 16513 of 2023

Bishnumaya Saha

-vs-

State of West Bengal & ors.

Mr. Tirupatipati Mukherjee

Ms. Jenifar Alam

...for the petitioner

Mr. Santanu Mitra

Ms. R. Halder

...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 action against the respondent nos. 8 and 9 on the basis of the complaint lodged by the petitioner and to take steps to evict the respondent nos. 8 and 9 from the residence of the petitioner.

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

Despite service, no one appears on behalf of the private respondents.

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

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is a 93 years old grandmother of the respondent no.8 and the respondent no.9 is the wife of the respondent no.8. After the death of the mother of respondent no.8, he had been residing with the

petitioner who used to take care of him. However, after marriage, the respondent no.8 and his wife started torturing the petitioner. They wanted to grab the property belonging to the petitioner. Because of such torture and assault, the petitioner was constrained to file a complaint before the local police station. However, no effective steps have been taken in this regard. The petitioner has now been ousted from her own residence by the private respondents.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. Pursuant to a direction passed under Section 156 (3) of the Code, an FIR being Netaji Nagar Police Station Case No. 66 dated 12.04.2023 was started at the behest of the present petitioner. After completion of investigation, a charge-sheet has also been filed in this regard. Therefore, there is no police inaction. However, the accused was granted bail in that case.

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

If the petitioner wants to have the respondent nos. 8 and 9 evicted from his residence, it is open to him to approach the regular Court of law. She can also file an application under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

However, even a valid civil dispute regarding property is no ground to deprive the 93 years old of her property and

to prevent her from entering into the same.

In the event, the petitioner has actually been ousted from her own property by the respondent nos. 8 and 9, upon 24 hours' notice given to the Officer-in-Charge of the Netaji Nagar Police Station, the latter would provide police assistance so that the petitioner can re-enter her own residence and stay there.

For this purpose, it would not be proper to relegate the petitioner to knock the door of the Civil Court.

The respondent police authorities shall also keep a strict 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 be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)