

21.08.2023
Sl. No. 12
Suman
Ct.No.14

WPA 17622 of 2023

Basudeb Sarkar
Vs.
The State of West Bengal and Ors.

Mr. Samik Sarkar
..for the petitioner

Mr. Pantu Deb Roy, AGP
Mr. Subrata Guha Biswas
..for the State

Mr. Kalyan Kumar Chakraborty
Mr. Kashinath Bhattacharya
..for the respondent No.7

This is an application under Article 226 of the Constitution praying for a direction upon the respondent authorities to take immediate action to evict the private respondents from the house of the petitioner and to cause investigation into the offences perpetrated by the private respondents.

No affidavit-in-opposition is filed on behalf of the private respondents.

The learned counsels appearing on behalf of the petitioner submits as follows. The petitioner is the father of the respondent No.6 and the father-in-law of the respondent No.7. He is the owner of the of the

property in question. He lives at the ground floor of the property with his wife. His 90-year-old mother recently passed away. The private respondents had been continuously inflicting torture upon the petitioner and his family members for quite some time. This prompted the petitioner to file an application for eviction of the private respondents under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, but the same was not granted. The daughter-in-law countered the petitioner's action by lodging an FIR, inter alia, under Section 498A IPC. As would be evident from the decisions passed by the Hon'ble Supreme Court that the son only lives as a licensee in his father's house. It is upto that father to initiate a proceeding for eviction, and a corresponding right of a daughter-in-law is also subservient to the rights of the parents under the 2007 Act. The private respondents are continuing to abuse and misbehave with the petitioner and the other family members.

Learned counsel on behalf of the respondent No.7 submits as follows. The allegations made in the writ petition are denied. The petitioners, in fact, refused to accept maintenance allowance offered by the respondent No.6. There is no collusion amongst the respondents as would be apparent from the fact

that the respondent No.7 initiated a proceeding against her husband under the provisions of the Protection of Women from Domestic Violence Act.

Learned advocate on behalf of the State relies on the report filed earlier and submits as follows. There exists a family dispute between the adverse parties. There are cases filed by the respondent No.7 in this regard. Complaints have also been lodged by the petitioner. The police authorities are keeping a strict vigil.

I have heard the learned advocates appearing for the parties and have perused the writ petition and the report filed by the State earlier.

Admittedly, there exists a dispute between the petitioner and the private respondents inter se. Cases filed by the respondent No.7 were registered by way of FIR and a proceeding under the Protection of Women from Domestic Violence Act.

If further allegations are made by the petitioner regarding any serious acts or alleged atrocities made by the private respondent at the said premises, the police shall consider the same and take steps in accordance with law and initiate a proceeding under Section 107 of the Code.

It is true that the son and daughter-in-law would stay at the property belonging to father and father-in-law as licensee. The petitioner shall be at liberty to take steps before the civil court for their eviction.

Therefore, no further order need be passed in this regard. However, the police shall keep 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 learned advocates for the parties on usual undertakings.

(Jay Sengupta, J.)