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Ct 14

WPA 17825 of 2023

Saikat Marik

-vs-

The State of West Bengal & ors.

Mr. Kallol Mondal

Mr. Atarup Banerjee

Mr. Arindam Sen

Mr. Saurav Basu

Mr. Samit Bhanja

Ms. Shreoshee Roy Chowdhury

....for the petitioner

Mr. Wasim Ahmed

Mr. Sk. Md. Masud

...for the State

Mr. Bikram Banerjee

Ms. Dipa Acharyya

...for the respondent no.8

Mr. Sudipta Dasgupta

Mr. S. Nayek

..for the added respondent no.9

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to ensure the security of life and property of the petitioner and to restore him to his room situated at the first floor of IA- 84, Sector- 3, Salt Lake, Police Station- Bidhannagar South, Kolkata- 700097.

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

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner has been assaulted by her elder sister and was practically dispossessed from the

property 75 per cent which belongs to him. His belongings were also snatched away by the elder sister being the respondent no.8.

Learned counsel appearing on behalf of the respondent no.8 submits as follows. On a particular day, the petitioner had locked his parents and younger sister in a room. To save them, the respondent no.8 had to go there. A scuffle ensued. But, the petitioner was able to get the victims extricated from the mess. This has been falsely portrayed by the petitioner as an incident where the elder sister beats up the younger brother.

Learned counsel appearing on behalf of the respondent no.9 submits as follows. It is true that the petitioner had locked them up in a room and the respondent no.8 came and saved them by getting the lock opened. This is a property which belonged to the respondent no.9. Out of love and affection, he had gifted away 75 per cent of the property to the petitioner. But, the petitioner took advantage of the situation and started torturing the parents and other relatives. He would bring outsiders into the property who would harass the inmates. The respondent no.9 was constrained to file an application under the Maintenance and Welfare of Parents Senior Citizens Act, 2007 claiming maintenance. The respondent no.9 has also filed a civil suit for cancelling the deed of gift. However, the respondent no.9 does not have any objection if the petitioner resides at the property subject to not bringing outsiders into the said

house.

Learned counsel for the State relies on the report and submits as follows. The police have recorded necessary GD entries. On a complaint made by the respondent no.8, a proceeding was initiated against the petitioner under Section 107 of the Code in which the parents rather painfully agreed to become witnesses. Sharp vigil is kept at the premises.

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.

There appears to be a family dispute in relation to a property at Salt Lake, which was earlier owned by the respondent no.9.

The respondent no.9 has already prayed for maintenance before the Maintenance Tribunal and is also contemplating filing a suit for cancellation of deed of gift by which he had gifted 75 per cent of the property to the present petitioner.

Once and if the deed is cancelled, the respondent no.9 would be in a position even to evict the petitioner as the latter would then be treated only as a licensee.

Till then, the petitioner does have a right to reside at the said property. However, to maintain peace the petitioner shall not bring outsiders into the house who could disturb his parents.

The police authorities shall keep a sharp vigil at the locale and ensure that no breach of peace takes place and no

order of Civil Court is violated.

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.)