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14.08.
2023
Ct. No.14

WPA 18185 of 2023

Sri Binod Das & Anr.
Vs.
The State of W. B. & Ors.

Mr. Sankar Prashad Dalapati
Mr. Pritam Chowdhury
Mr. S. Dewan
Mr. Sourav Mondal
Mr. Abhishek Adhya
.....For the Petitioners
Mr. Suman Sengupta
Mr. Sanatan Panja
.....For the State

Leave is granted to expunge the name of the respondent no.7 from the cause title.

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondents to have the private respondents removed from the residential house of the petitioners and to render police assistance so that the petitioners can live peacefully at their residence.

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

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

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

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioners are the

parents of the respondent no.5 and the parents-in-law of the respondent no.6. The private respondents had been torturing the petitioners and making their lives miserable at their own residence. They would extort money from the petitioners and on protest, would beat up the petitioners. This is despite the fact the private respondents do not have any right, title and interest over the property and the present petitioners are the owners of the said property. Several complaints have been made before the police station and an FIR was registered. Still the torture continued unabated.

Learned counsel appearing on behalf of the State relies on a report and submits as follows. On the complaint of the petitioners, an FIR was registered being Sonarpur PS Case No. 711/23 dated 05.07.23 and notice was also given to the complainant to produce the documents under Section 91 of the Cr. P. C. Notice was given to the accused under Section 41(A) of the Code. The accused surrendered before the learned trial court and released on bail. The police have initiated a proceeding under Section 107 of the Code against the private respondents.

I have heard the submissions of the learned counsel for the parties and have perused the writ petition and the report filed by the State.

If the petitioners are the absolute owners of the property in question, their son and daughter-in-law can only live at their residence in the capacity of licensee. It shall be open to the petitioners to take a necessary step to evict the said licensee.

So far as the complaints made to the police are concerned, an FIR has already been lodged and the same is being investigated. The police have also initiated a proceeding under Section 107 of the Cr. P. C.

Therefore, no further order need be passed in this regard.

However, the police authorities shall maintain a strict 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, if applied for, be given to the parties on urgent basis after compliance of all necessary formalities.

(Jay Sengupta, J.)

