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30.11.2023
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Ct 14

WPA 18255 of 2023

Jahera Gazi & anr.

-vs-

The State of West Bengal & ors.

Mr. Mohinoor Rahaman

Ms. Maria Rahaman

Ms. Iqra Rahaman

....for the petitioners

Mr. Asish Kumar Guha

Mr. Sanatan Panja

...for the State

From the affidavit of service, it appears that service of notice was effect on the private respondents. In spite of that they have chosen not to appear.

Exception filed to the report of the State is taken on record.

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioner no.1 is the owner of the property that was gifted to her by her husband at Dag No. 1724. The dispute is that the petitioners are not being able to enjoy the said landed property that was gifted to the petitioner no.1. The private respondent is the son of the petitioner who is disturbing the peaceful possession and enjoyment of such land by the petitioner. This compelled the petitioner no. 1 to take refuge at the house of the petitioner no.2, her married daughter. Before the death of her husband, the petitioner was staying at their house in another plot of land. After the death of her husband, the

private respondent somehow managed to take aid under the PMAY and build a house on such property. However, the petitioner is still the lawful owner of such property.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. An inquiry revealed that even before the husband of the petitioner executed a gift deed in respect of Dag No. 1724, bulk of such property was actually possessed by the children. As the private respondent was not maintaining the petitioner, the petitioner was compelled to leave the earlier residence and decided to stay with the petitioner no.2, her married daughter. However, the petitioner no.1 has also sold away a part of her property at Dag No. 1732. On the complaint of the petitioner no.1, a proceeding has already been initiated under Section 107 of the Code.

It appears that there exists a civil dispute between the petitioner and the private respondents. However, the private respondent has a liability to maintain his mother. The petitioner no.1 shall be at liberty to take appropriate steps under the law of the land to seek maintenance and residence. This is without prejudice to her right under the Civil law in respect of such property which shall also be at liberty to exercise.

It further appears that the police have taken some action by initiating a proceeding under Section 107 of the Code.

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

However, the police authorities shall keep a sharp 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.)