

21 12.09.2023
NB Ct. 14

WPA 19359 of 2023

Susmita Kundu
Vs.
The State of West Bengal & Ors.

Mr. Debanjan Mukherjee,
Mr. Anit Dey.
...for the petitioner.

Mr. Ashim Kumar Ganguly Sr. Adv.,
Jyotsna Roy Mukherjee.
....for the State.

Ms. Mousomee Shome,
Mr. Subhojit Das.
...for the respondent nos.9,10&12.

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

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

Learned counsel appearing of the petitioner submits as follows. The petitioner is an aged lady and a co-owner of the property in question. Some of her daughters had forced her to sign on some papers. Later on, it transpires that it was Deed of Sale. The private respondents are threatening and intimidating the petitioner and are disturbing her peaceful possession of the property. On one occasion, the local police Officers had dragged the petitioner to the police station and threatened strip search, if she did not execute such documents. The police have not acted on the complaints made by the petitioner.

Learned counsel appearing on behalf of the State submits as follows. There are allegations and counter-allegations made by the adverse parties. Five FIRs have

already been registered. A charge sheet has been submitted on one such FIR lodged by a daughter of the petitioner. Otherwise, the dispute is purely civil in nature.

Learned counsel appearing on behalf of the private respondent nos.9, 10 and 12 relies on a copy of a Deed of Conveyance dated 27.07.2021, which is also taken on record and submits as follows. By the said Deed, the petitioner and all her daughters had conveyed to the private respondents the property in question as would appear from the documents. The petitioner presented herself before the learned Registrar and executed the documents. The allegations made by her in the writ petition are absolutely false. This is a case of suppression of material facts as well. Nowhere in the writ petition has it been averred by the petitioner that the private respondents had filed a civil suit being Title Suit No.966 of 2022 pending before the learned First Civil Judge (Junior Division), Barasat. In fact, the private respondent nos.9, 10 and 12 were granted an ad-interim order of injunction in their favour. By suppressing all these, the allegations have been made by the petitioner against all and sundry.

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

It appears that the petitioner have not stated anything about the pendency of a civil suit. Any relief to be sought by any of the parties in the suit shall have to be before that civil Court only.

On the allegations contained at paragraph 12 of the writ petition, the petitioner shall be at liberty to act in terms of the decision of the Hon'ble Apex Court in ***Aleque Padamsee*** Case, (2007) 6 SCC 171.

It further appears that the police authorities have already started as many as five cases in this regard in one of which a charge sheet has already been submitted.

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

However, the police authorities shall keep a close vigil at the locale so that no breach of peace takes place.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)