

HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

WPA 20350 of 2023

Samar Kamley and another

Versus

The State of West Bengal and others

For the petitioners Mr. P. Hazra

For the State Mr. Suman Ghosh
 Mr. Sankha Prasad Roy

For the Private Respondents Mr. Ankit Agarwala
 Ms. Alotriya Mukherjee

Heard on 15.09.2023

Judgment on 15.09.2023

JAY SENGUPTA, J:

Affidavit of service filed in Court is taken on record.

A report filed by the State is also taken on record.

Learned advocate appearing for the petitioners submits as follows. The petitioners are the parents of the respondent No.4 and the parents-in-law of the respondent No.5, respectively. The petitioner No.1 is the owner of the property in question. The private respondents have been disturbing the peaceful possession of the petitioners and have been threatening and intimidating them in order to grab the entire property despite the fact that the petitioners have already constructed a separate house for them. Earlier the private respondents had driven out the petitioners from their own house. This prompted the petitioners to approach this Court. By an order dated 04.08.2022 passed in WPA 13090 of 2022, this Court directed the police authorities to escort the petitioners to their own residence situated at Bhanjipur under Tarakeswar Police Station. Only a few days after that the private respondents were again ousted. They are forced to live elsewhere and an application for contempt of court was filed. By an order dated 11.05.2023 the application was disposed of. Thereafter the petitioners have approached this Court for a similar relief that they may be escorted back to their own residence.

Learned advocate for the private respondents submits as follows. The allegations made in the writ petition are denied. The respondent No.4 is working as an artisan in a different State. The private respondents have never been disturbing the

petitioners. There is nothing on record to show that they have ever ousted the petitioners from their residence. The respondent No.5 is living in the house with his minor daughter. She would not do anything to disturb the petitioners or prevent them for coming back home.

Learned advocate for the State relies on the report and submits as follows. Pursuant to the order passed by this Court, earlier the police had escorted the petitioners back to their home. Inquiry reveals that at present the petitioners are now residing at the house of one Arati Jana at village Bhanjipur with a view to avoid family disputes. On the complaint of the petitioners, two FIRs had been registered, one of which has already ended in a charge-sheet.

This is an unfortunate case where the petitioners have to approach this Court twice in a span of practically one year with a prayer to reinstate them to their own residence because they had been ousted from it by their own son and daughter-in-law.

It also appears that earlier the police had instituted the criminal cases at the behest of the petitioners.

At this age, the petitioners should not be relegated to a civil court for returning to their own house.

In view of the above and the interest of justice, let the petitioners intimate the Officer-in-Charge of Tarakeswar Police

Station about their intended date and time of return with a twenty-four hours' notice. Upon receiving such notice, the Officer-in-Charge shall arrange for adequate police protection to escort the petitioners to their own residence. The entry of the petitioners to their own residence shall be videographed.

Even otherwise, the police shall keep a sharp vigil at the locale and ensure that no breach of peace takes place.

In the event any untoward incident happens or is apprehended by the petitioners, they shall be at liberty to inform the local police station who shall then act in accordance with law.

The petitioners shall be at liberty to file a civil suit for eviction of the private parties.

As affidavits were not called for, the allegations made are deemed not to have been admitted.

With these observations, the writ petition is disposed of.

Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

[Jay Sengupta, J.]

