

WPA 21512 of 2023

Shyam Karmakar

-vs-

The State of West Bengal & ors.

Mr. Arnab Mukherjee

Mrs. Polly Banerjee

...for the petitioner

Mr. Santanu Mitra

Mrs. Rama Haldar

....for the State

Mr. Soumyajit Bhatta

...for the respondent no.6

Mr. Atis Kumar Biswas

Mr. Amit Singh

Mrs. Jyoti Agarwal

...for the respondent nos. 7 to 9

Affidavits of service filed on behalf of the petitioner are taken on record.

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

Copies of documents filed on behalf of the petitioner and the private respondents are also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the husband of the respondent no.6. The petitioner is the owner of a property situated at Village- Natungram, Post Office- Hijuli, P.S.- Dhantala, Nadia, Pin- 741202. This is the only property of which the petitioner is the owner. There are other properties which are owned by the petitioner's wife. Yet, the petitioner's wife the respondent no.6 has forcibly taken possession of the petitioner's property as mentioned above and is not allowing

the petitioner to enter into such property. This is despite the fact that the petitioner was granted an injunction by the learned Civil Judge, Jr. Division, 2nd Court, Ranaghat, Nadia on 04.11.2022 in Title Suit No. 144 of 2022 thereby restraining the defendant wife from distributing the peaceful possession of the husband plaintiff in the scheduled property.

Learned counsel appearing on behalf of the private respondents submits as follows. By an order dated 06.06.2023 passed by this Court in WPA 4159 of 2023, this Court recorded that the husband and the family would have no objection if the wife resided in the house on the land recorded in J. L. No. 112, Khatian No. 2811, Mouza- 112 of 552 measuring about 0.1071 decimals of land. In fact, the petitioner was directed not to enter into or disturb the private respondent in any other property. As would be evident from an order dated 04.01.2023 passed by the learned Judicial Magistrate, 3rd Court, Ranaghat in Misc. Case No. 405 of 2022 under the provision of the Protection of Women from Domestic Violence Act that the land on which the wife was found entitled to reside in is Dag No. 552. The wife respondent is not preventing the petitioner from entering into the house in question at Dag No. 553.

Learned counsel appearing on behalf of the State relies on a report, which is taken on record and submits as follows. On the complaint of the petitioner, a specific FIR was registered being Dhantala Police Station Case No.640 dated

06.09.2023.

Without prejudice to the title of each of the occupiers in Dag No. 552 and Dag No. 553, it is now clear that the respondent wife is staking claim of residence in respect of the Dag No. 552 while the petitioner wants to enter into his property at Dag No. 553 to which the wife apparently does not have any objection.

Therefore, the petitioner shall be entitled to enter into his own property at Dag No. 553. For this, he shall intimate the Officer in Charge of the local Police Station with a 24 hours' notice about the time and date of his return. The entry to the said property will be in the presence of the local police personnel.

It is also understood that the petitioner has every right to reside at the property at Dag No. 552 to which the respondent wife shall not object.

No further order need be passed in this matter.

However, the police shall keep a close watch and maintain peace at the locale.

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.)