

W.P.A. 21602 of 2023

Rajat Suvra Roy
-versus
The State of West Bengal & Ors.

Mr. Indrajit Dutta.
... for the petitioner

Mr. Moyukh Mukherjee,
Ms. Sagnika Banerjee.
...For the respondent no. 5

Mr. Ansar Mondal,
Mr. Md. Idrish.
... for the State

Affidavit-of-service filed in Court today is taken on record.

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

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the sole owner of a G+3 storied building at New Town. He lives with his 91 years old mother, wife and son being the respondent no. 5 herein. From 2018 the private respondent started disturbing the peaceful possession of the property. He pressed for transferring the property in his name. The situation aggravated in the year 2020. The private respondents started using his mother as a shield. After twenty-six years of marriage, the petitioner's wife initiated a proceeding under the Protection of Women for Domestic Violence Act and lodged an FIR under Section 498A of the Indian Penal Code. It was only after filing of this writ petition that the police registered an FIR, on a complaint lodged by

the petitioner. At present the petitioner seeks protection from the private respondents.

Learned counsel appearing on behalf of the private respondents submitted as follows. The allegations made in the writ petition are denied. The wife and the son of the petitioner are staying in one floor of the building and the rest of the building is enjoyed by the petitioner. The petitioner even went on to stop water supply and electricity to the portion occupied by the wife and son. A proceeding under Section 107 of the Code had to be initiated against the petitioner. The petitioner is making false allegations against the private respondents because the private respondents had stood by his mother and agreed to be witness in the case started by her under Section 498 A of the Indian Penal Code.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. On the complaint of the petitioner an FIR has already been lodged. The complaint registered under Section 498A of the Penal Code has ended in a Charge-sheet.

It appears that there are some serious disputes between the private parties.

The rights of a wife and the rights of a son are quite different. Regardless of a proceeding that might have been started by the wife of the petitioner under Section 498A of the Penal Code and the provisions of the Protection of Women for Domestic Violence Act, the status of the private respondents in the house belonging to the petitioner is that of a licensee. If the petitioner wants to evict his son from the said house, he shall be at liberty to do so, however, as per due process of law.

Since an FIR has already been lodged on the complaint of the petitioner it is no more an issue before

this Court. The private respondent can also deal with the same in an appropriate manner.

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

However, the respondent authorities shall keep a vigil at the locale and ensure that no breach of peace takes place and no order of a Civil Court is violated.

With these observations, the writ petition is disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Jay Sengupta, J.)