

WPA 22408 of 2023

Rabindra Nath Jana
-vs-
State of West Bengal & ors..

Mr. Akash Dutta
...for the petitioner
Mr. Goutam Misra
Mr. Vaskar Pal
...for the respondent no.4
Mr. Suman Sengupta
Mr. Sambuddha Dutta
...for the State

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 on behalf of the petitioner submits as follows. The petitioner is a 90 years old owner of the property in question. The respondent no.4 is his elder son. Earlier the petitioner had gifted away portions of the property to his two sons including the private respondent. However, the private respondent, thereafter, has been creating disturbances. This has prompted the petitioner to pray for cancellation of the gift deed in respect of him before the learned Maintenance Tribunal. In the meantime, the private respondent has forcibly ousted the petitioner from his own residence.

Learned counsel appearing on behalf of the private respondent no.4 submits as follows. The allegations made in

the writ petition are denied. The petitioner for some reason intends to give away all his property to the other son. The private respondent at present is staying at the mud house that was gifted by the petitioner to him. The private respondent has no objection if the petitioner stays or continues to stay in his own house.

Learned counsel appearing on behalf of the State submits as follows. There is a dispute pending between the two brothers over their claims on the property in question. Otherwise, the dispute is civil in nature.

It appears that the petitioner was the owner of the property in question. It is a different thing that he might have gifted some portions to his two sons and might have also prayed for setting aside of one such gift deed.

However, at this advanced age, the petitioner cannot be relegated to a Civil Court for obtaining a relief to return to his house. Fortunately it has been submitted on behalf of the private respondent that he has no objection if the petitioner stays or continues to stay in his own house.

In the event, the petitioner is actually having to stay outside his residence, he shall intimate his intended date and time of return to the Officer in Charge of Belda Police Station with a 24 hours' notice. The police officer shall make adequate arrangements for police escort to accompany the petitioner to his own house. The entry of the petitioner to his own house shall be videographed. Even otherwise, 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.)