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09.10.2023
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WPA 22941 of 2023

Mohammad Habibur Rahman Sheikh

-vs-

State of West Bengal & ors.

Mr. Kusal Kumar Mukherjee

Mr. Narattam Acharyya

...for the petitioner

Mr. Somnath Ganguli

Mr. Parikshit Goswami

...for the State

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

Despite service, no one appears on behalf of the private respondents.

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 father of the respondent no.5 and father in law of the respondent no.6 respectively. The petitioner is the owner of the property in question. After the marriage of the private respondents, they started harassing and intimidating the petitioner and his wife. Finally they have driven out the petitioner and his wife from their own residence.

Learned counsel for the State relies on the report and submits as follows. At one point the petitioner, the owner of the property in question, gave consent to the private

respondent no.5 to build a floor on their existing house. However, thereafter each side has contended that the other was having no right to reside in the property. The petitioner alleged that he was assaulted and threatened by the private respondents. Over this Bishnupur PS Case No. 830 of 2023 was started under Sections 341, 323, 506 and 34 of the Indian Penal Code. However, the petitioner and his wife are at present residing peacefully at their dwelling house.

As the petitioner is the owner of the property, there is no question of the private respondents denying him or his wife entry to their residential house. If at all, any right has accrued to the private respondents for constructing another floor on the top of the petitioner's house, that is a matter to be decided by a Civil Court.

However, at this advanced age, neither the petitioner nor his wife should be relegated to a Civil Court for obtaining a relief.

In view of the above, in the event the petitioners have not yet been able to return home, let the petitioner inform the Officer-in-Charge of Bishnupur Police Station about their intended date and time of return to their house. The Officer shall then take appropriate steps to arrange for police escort for the petitioners return home. Their return to their own residential 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.)