

WPA 23142 of 2023

Mrityunjay Das

-vs-

The State of West Bengal & ors.

Mr. Ziaul Haque

Mr. Himadri Kumar Mahata

....for the petitioner

Mr. Ansar Mondal

Mr. Md. Idrish

...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 tenant for a shop room under the respondent no.6. An agreement to this effect was entered into in the year 2010. However, suddenly on 05.09.2022, the petitioner was forcibly ousted from the said premises and the private respondent put a padlock on the main gate. He made complaints before the police authorities but no steps were taken. On 02.09.2023, he again went to open the shop room. But the private respondent and his men drove him away.

Learned counsel appearing on behalf of the State relies on the report and submits that the dispute between the private parties is at best civil and commercial one. However, on the complaint of the petitioner, a proceeding has been

initiated under Section 107 of the Code of Criminal Procedure.

If a person is forcibly ousted from a premises, he has several options to explore as a remedy. He can claim repossession under Section 145 of the Code of Criminal Procedure or he can approach the Civil Court for appropriate remedy. In fact, putting a padlock on someone's gate is not meant of taking possession. It can at best be termed as a 'mischief'.

However, to seek a remedy, one has to act diligently and promptly. In the present case, the petitioner was allegedly dispossessed in the month of September 2022. He has tried to make out a case of a recent cause of action by claiming that he had gone to take possession again in September, 2023, but was driven out. This cannot cure the latches of his part of not taking appropriate steps for seeking repossession in time.

Moreover, there are no admitted facts on which this Court can proceed to grant relief to the petitioner as sought.

Accordingly, the writ petition is dismissed.

However, there shall be no order as to costs.

Nonetheless, the petitioner shall be at liberty to take recourse to seeking remedy before the Civil Court.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)

