

WPA 26013 of 2023
with
IA No. CAN 1 of 2023

Smt. Sandhya Maity
Vs.
State of West Bengal & Ors.

Mr. Ramdulal Manna
Ms. Manju Manna (Dey)
Mr. Sabyasachi Mondal
Mr. Sayan Mukherjee
Ms. Payel Khanra

...for the petitioner

Mr. Samim ul Bari
Mr. Sabyasachi Bhattacharjee

... for the State

Mr. Pankaj Halder
Mr. Tapas Manna
Mr. Neelabha Bera
Mr. Bidish Ghosh

... for the Private respondents

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 73
years old lady of frail health. After her husband passed
away she has been living in her property alone. In the
year 2019 the private respondent No. 6, being the
nephew of the petitioner approached her for a few
month's stay due to some personal difficulty.
Thinking that this might actually help her for

obtaining medicines, etc., he was permitted to stay there for sometime. But the private respondent started misbehaving with the petitioner and pressurising him to convey the property to him. The petitioner requested him to vacate the premises on the ground that because of his presence her daughters were not able to visit her and stay. But, he did not listen. On another occasion the private respondents came with some miscreants, threatened and assaulted the petitioner. Finally the private respondent and his men forcibly ousted the petitioner from her own property. This prompted the petitioner to approach this Court. By an order dated 17.10.2023 passed by this Court in WPA 24927 of 2023, the petitioner was granted police escort to enter into her own residence. However, she found that the private respondent had now brought a member of her relatives and other men in the said house. It was not safe for the petitioner to stay there any more. Accordingly, the petitioner prays for further relief to oust the private respondents and his men and agents so that the petitioner can stay there.

Learned counsel appearing on behalf of the private respondents submits as follows. The allegations made in the writ petition are denied. The petitioner is actually a co-sharer in the property. He

has been staying in the property since 2011. Two rooms are lying vacant for the use of the petitioner.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. Pursuant to the direction passed by this Court the police had rendered necessary help and police escort for the petitioner to enter into her own property. However, the petitioner did not agree to enter into the property unless the private respondent was driven out. But, that was not the mandate of this Court.

Earlier, a very special relief was granted to the petitioner on the ground that she was of advance age and she wanted to return to her own house. At that time it was not the case of the petitioner that she would not return to her own residence if the private respondent would also be present there.

Be that as it may, eviction of an admitted resident, albeit temporary, is not the job of a writ court that too sitting with the determination of 'police inaction'. Therefore, if the petitioner wants to avail of such relief as that of evicting the private respondents from the property and then entering the said property, she has to take necessary steps before the concerned civil Court.

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

However, let the police authorities keep a sharp vigil at the locale, ensure that no breach of peace takes place and see to it that no order of a civil Court is violated.

With these observations, the writ petition is disposed of. The connected application also stands disposed of.

Since affidavits were not called for, allegations contained in the writ petition are deemed not to have been admitted.

Urgent Photostat certified copy of this order be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J)