

396 13.12.2023
NB Ct. 14

WPA 26243 of 2023

Biswanath Saha
Vs.
The State of West Bengal & Ors.

Mr. Debabrata Saha Roy,
Mr. Neil Basu,
Mr. Sankha Biswas.
..for the petitioner.

Mr. Somnath Ganguli Id. AGP.,
Ms. Priyamvada Singh.
...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 owner of the property in question. The respondent no.8 is his son who is an MLA and the respondent no.9 is the daughter in law. The private respondents had ousted the petitioner from his own residence. At present, the respondent no.8 is in custody in connection with a police case. The petitioner is an aged man who has no other place to live. This Court may pass necessary directions so that the petitioner can be reinstated back in his home.

Learned counsel appearing on behalf of the State relies on the report, and submits as follows. During local enquiry, it was found that the petitioner was staying with his second wife at another place. The first wife resides at her paternal home.

However, the petitioner runs a MR dealership/distributorship from the same house from where he claims that he was driven out.

Therefore, it appears that the petitioner is in possession of at least one room in the house in question. It is not clear whether there was any other arrangement that might have led the petitioner to stay elsewhere while using one room for the distributorship/dealership.

It is not even clear whether the petitioner had approached the Executive Magistrate under Section 145 of the Code after the alleged dispossession.

This is not a case of a proverbial aged and ailing parent ousted by a son or a daughter and having no place to stay that the petitioner could not be relegated to the civil Court for obtaining necessary relief.

In such circumstances, if any of the parties wants to establish any further right in respect of the said property, he shall be at liberty to do the same before a civil Court.

If any cognizable case is made out from any of the complaints lodged by the petitioner before the police authorities, the police shall take necessary steps in this regard.

No further order need be passed in this regard.

With these observations, the writ petition is disposed of without any order as to costs.

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

(Jay Sengupta, J.)