

December 18, 2023
AD 12
Ct. No.14
SG

WPA 27490 of 2023
Mithun Nath
vs.
State of West Bengal and others

Mr. Pradip Kumar Kundu
Mr. Kingshuk Mondal
... for the petitioner
Mr. Amitesh Banerjee
Mr. Tarak Karan
... for the State

Report filed by the State regarding intimation to be given to the respondent No.5 as filed in Court is taken on record. It appears that the respondent No.5 was intimated about the pendency of the matter. He has chosen not to respond.

Learned counsel appearing on behalf of the petitioner submits that the petitioner is the owner of the property in question. He has a little child to take care of. On 23.03.2023 the petitioner was dispossessed from his own property by the respondent No.5 who happens to be a police officer. He is a powerful and influential person and is threatening the petitioner with dire consequences including a threat of falsely implicating him in a serious criminal case. The petitioner should be put back in possession. This also calls for departmental action.

Learned senior counsel appearing on behalf of the State denies any police inaction and submits as follows. From local inquiry it was found that the father of the petitioner had given shelter to the respondent No.5 at some point. The private respondent gradually took

control of the entire building and dispossessed the petitioner and his family members from the property. It is purely a civil dispute. The police cannot give back position to the petitioner without a civil court's order.

It appears that the petitioner was dispossessed from his own property. This might have been done by the respondent No.5 as alleged over a period of time.

The petitioner neither approached in a civil court seeking appropriate relief nor had proceeded under Section 145 of the Code immediately after the alleged dispossession.

The petitioner shall be at liberty to approach civil court for appropriate relief. Otherwise, the matter seems to be primarily a civil dispute.

However, it is not clear from the available facts whether such an alleged act by the respondent No.5 could also amount to a misdemeanour by a public servant attracting departmental proceedings.

No further order need be passed in this regard.

As affidavits were not called for, the allegations made are deemed not to have been admitted.

With these observations, the writ petition is disposed of.

A copy of this order shall be sent to the Commissioner of Police, Kolkata.

Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

Parties shall act on a server copy downloaded from the official website of this Court.

[Jay Sengupta, J.]