

18
31.07.2023
Ct. No.2
b.das

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction**

WPA No. 1519 of 2023

Shanta Prakash Rai
Vs.
The State of W.B. & Ors.

Ms. Sidhi Sethia ...for the petitioner.

Mr. Hirak Barman
Mr. Pretom Das ..for the State.

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

None appears for the private respondents despite service.

It is contended on behalf of the petitioner that the 7th respondent is the daughter-in-law of the petitioner and initially resided in Sikkim with her husband and shifted to the premises in question belonging to the petitioner after the petitioner's son was diagnosed with kidney ailments.

Since the petitioner was busy with the treatment of his son, he entrusted the 7th respondent to run the hotel business of the petitioner. The petitioner's son expired, following which the 7th respondent lodged a complaint against

the petitioner and his wife under Section 498A of the Code. The petitioner was restrained from entering into his house by the 7th respondent and was constrained to take shelter in his daughter's house.

The petitioner submitted representations before the Sub-Divisional Officer, Mirik as well as the police authority requesting assistance to re-enter his house along with his wife and stay there peacefully. The representations are yet to be considered.

The petitioner prays for a direction upon the concerned authority to consider the representations submitted by the petitioner and render assistance so that he is able to enter his house and reside there peacefully.

It is submitted on behalf of the State respondents that the 2nd respondent be directed to consider the representation, in accordance with law.

It is not in dispute that the property in question as well as the business running therein are in the name of the petitioner, who is the septuagenarian father-in-law of the 7th respondent and the unfortunate father of his deceased son.

The petitioner appears to have been ousted from his own property by his daughter-in-law.

The 7th respondent has filed a title suit before the learned Civil Judge (Senior Division), Kurseong praying for a declaration to the effect that she is in possession of the property in question and an injunction restraining the defendants therein (defendant no.1 being the petitioner in the writ petition) from disturbing her peaceful running of the business therein and from alienating the property.

Upon consideration of the submission made on behalf of the parties and material on record, this Court is inclined to hold that since it is not in dispute that the property in question belongs to the petitioner and is in possession of the 7th respondent at present, the concerned authority, being the 2nd respondent herein be directed to consider and dispose of the representation submitted by the petitioner and take necessary steps for his re-entry into his house at Mirik.

Accordingly, the writ petition is disposed of directing the 2nd respondent to consider and dispose of the representation submitted by the petitioner dated 3rd July, 2023 within two weeks from the date of communication of this order and take necessary steps for re-entry of the petitioner and his wife into the property belonging to the petitioner within a week thereafter.

The concerned authority shall grant reasonable opportunity of hearing to all the interested persons including the petitioner and the 7th respondent in dealing with the representation, in accordance with law.

It is made clear that steps taken by the authority in terms of this order shall not influence the merits of the suit pending before the Civil Court in any manner whatsoever.

With the above observations and directions the writ petition being WPA 1519 of 2023 is disposed of.

However, there shall be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

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

(Suvra Ghosh, J.)