

24-11-2023
Court No.3
Sh/60.

**In The High Court At Calcutta
Jalpaiguri Circuit Bench**

C.O. 131 of 2023

Sri Ajit Kumar Basunia.

-Vs-

Pintu Basunia & Ors.

Mr. Bhaskar Roy Mahashyay,
Mr. Sannidhya Dutta.

For the petitioner.

Mr. Satyaki Basu.

For the opposite party no.1

1. Affidavit of service filed in Court be taken on record.
2. This is an application under Article 227 of the Constitution of India against an order dated 02-05-2023 passed by the Tribunal constituted under Section 5 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007, who was pleased to dispose of the aforesaid proceeding by making a direction upon the opposite party nos.1 and 2 to behave with the petitioner so that the petitioner can live peacefully with further direction upon the I.C. Dhupguri Police Station to keep close vigil over the matter.
3. The petitioner being the father of opposite party no.1 and father in law of opposite party no.2 filed one application being Ptn/R No.994 of 2022 dated 29-11-2022 stating that the opposite party nos.1 and 2 who are his son and daughter in law are occupying part of the dwelling house of the petitioner and has been restraining the petitioner from entering into the house, along with other allegations. It further appears that the Tribunal by its order dated 29-11-2022 considered the

vulnerable conditions of the petitioner and directed the opposite parties to appear before the tribunal and to file show cause and at the same time by the said order dated 29-11-2022, the Tribunal was pleased to direct the I.C., Dhupguri police station to enquire the matter and to submit a report by the next date. It appears from the next order i.e, order dated 10-02-2023 that no report was placed before the Tribunal and the Tribunal again directed the Dhupguri police station to submit a report in that respect by the next date. It further appears from the order passed on the next date, i.e, on 21-03-2023 that no report was filed by the police for which the Tribunal again directed the Dhupguri police station to submit a report on 02-05-2023

4. Now by the impugned order dated 02-05-20223 the Tribunal below only recorded the presence of the parties and made a direction to the parties that the opposite parties should behave in a particular manner and I.C. Dhupguri police station should keep close vigil over the matter.
5. It is surprising that without being satisfied and waiting for the report from the Dhupguri police station as was sought for, the entire case was dropped by passing a cryptic order without any finding.
6. In such view of the matter, it appears that the order impugned is perverse and the Tribunal concerned has failed to exercise the jurisdiction vested on it. Accordingly, the impugned order dated 02-05-2023 is quashed and set aside.
7. C.O. 131 of 2023 is accordingly, allowed.
8. The aforesaid Tribunal is hereby directed to obtain police report as sought for by him in the previous

order and to consider the submissions made by both the parties in the light of report and to pass an order afresh giving reasons within a period of eight weeks from the date of communication of this order.

9. Registry is directed to communicate this order to the Sub-Divisional Officer, Sadar at Jalpaiguri for compliance of this order.
10. Urgent website certified copy of this order duly downloaded from the official website of this Court, if applied for, be supplied to the learned advocates appearing for the parties subject to compliance of all requisite formalities.

(Ajoy Kumar Mukherjee, J.)

