

06.12.2023
Sl. No. 19
Court No.2
Sandip

**In the Calcutta High Court
Circuit Bench at Jalpaiguri
Appellate Side**

WPA 2545 of 2023

Smt. Suchita Nagdeote

vs.

The State of West Bengal & Ors.

Mr. Bapi Sarkar ... for the petitioner

Mr. Pretom Das,
Mr. Sourav Sarkar ... for the State

Affidavit-of-service filed on behalf of the petitioner be
kept with the record.

The order dated August 01, 2023 passed by the Sub-
Divisional Magistrate, Siliguri is under challenge in the
present writ petition.

The respondent no. 10 is the husband and the
respondent no. 11 is the mother-in-law of the petitioner.

The respondent no. 10 is a visually impaired person.

The respondent no. 11 had a pending complaint before
the Sub-Divisional Executive Magistrate, Siliguri wherein she
alleged that her son is being subjected to torture by his wife
and prayed that her son be protected from such torture. She
filed a writ petition being WPA 516 of 2023 complaining
inaction on the part of the said Magistrate to attend to the said
complaint.

The said writ petition was disposed of on April 12,
2023 by directing the said Magistrate to dispose of the said
complaint, in compliance with the said direction, the said
Magistrate by the order impugned dated August 01, 2023 has
disposed of the said application as follows:-

- “1. The petitioner is directed to furnish a Bond to take custody of Avishek Sarkar, the younger son of petitioner and provide him with appropriate environment and personal liberty as laid down under 6 and 7 of the Rights of Persons with Disabilities Act, 2016.*
- 2. The Inspector-in-Charge/Officer-in-Charge of Bhaktinagar Police Station is directed to rescue Shri Avishek Sarkar from the house of Smt. Suchita Nagdeote, W/o. Abhishek Sarkar and D/o. Prakash Shiodar Nagdeote @ Prakash at Telipara, Ashigarh, Naresh More, (near Sarada School). P.O. Ghogomali, Ashigarh, Outpost under Bhaktinagar Police Station, Jalpaiguri immediately and to hand over him to his mother i.e.. Mrs. Sumana Sarkar, W/o, Lt. Ashit Kumar Sarkar residing at Deshbandhu Para, Ward No. 29, P.O. Siliguri Town, P.S. Siliguri, Dist. – Darjeeling, with in three (3) days after receiving copy of this order and same compliance report to the undersigned positively.*
- 3. The Inspector-in-Charge, Siliguri Police Station is directed to keep strict vigil at the residence of Mrs. Sumana Sarkar, W/o, Lt. Ashit Kumar Sarkar residing at Deshbandhu Para, Ward no. 29, P.O. Siliguri Town, P.S. Siliguri, Dist. – Darjeeling to ensure the peace and tranquility is maintained by the both parties and petitioners interest does not get hampered in any cost.*
- 4. Mrs. Sumana Sarkar, the petitioner and Smt. Suchita Nagdeote, respondent no. 9 are directed to comply the order and maintained peace and tranquility accordingly failing which the legal action will be taken as per provisions of law.”*

Learned advocate for the petitioner submits that the observations made in the order impugned would cause serious prejudice to the petitioner in resorting to the protection of law regarding maintenance and enforcement of other rights accrued to her on account of marriage.

The right of the petitioner, being the wife of the respondent no. 10, acknowledged under the provisions of the relevant laws cannot be affected by the observations made in

the order impugned, such right would be determined on its own merit.

W.P.A. 2545 of 2023 is therefore disposed of with the above observation without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official website of this Court.

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

(Biswajit Basu, J.)