

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/36/2023

WITH
IA NO. GA/1/2023
WPO/1/2023

ASIF LATIF
VERSUS
THE STATE OF WEST BENGAL AND OTHERS

BEFORE:

HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA
HON'BLE JUSTICE RAJARSHI BHARADWAJ

Date: 17th February 2023.

APPEARANCE:

Mr. Kaustav Chandra Das, Advocate
Mr. Arnab Dutt, Advocate
... for appellant.

Mr. Indranil Nandi, Advocate
Mr. Sayak Konar, Advocate
... for respondent no.2.

The Court:- This intro-court appeal is at the instance of the writ petitioner in WPO/1/2023 challenging the order of the Learned Single Judge dated 2nd February 2023.

Record reflects that the appellant has approached the Writ Court seeking a direction against the respondent no.2 to restore possession of the shop in question. Record further reflects that earlier the matter was listed before the Learned Single Judge as per roster who had released the matter on the personal ground on 10th January 2023 for purpose of assignment in the appropriate Bench. The matter was assigned to another Bench and the Learned Single Judge on 2nd February 2023 has passed the following order:-

“This matter has been assigned to this Court.

List this matter in the last week of February, 2023.”

Submission of learned counsel for the appellant is that there is urgency in the matter and that the keys of the premises have been taken by force at the police station and that the appellant is not in a position to run the business. His further submission is that he has duplicate keys, but he cannot dare to open the premises.

Learned counsel for the respondent no.2 has objected to the submission of learned counsel for the appellant by submitting that the premises in question is under the control of the respondent no.2 and the recorded tenant of the premises is one Paramount Refrigeration Co., which has not paid rent since last 30 years. His further plea is that on enquiry by the respondent no.2, the possession was found to be with one Dicky Braganza of M/s. Braganza & Co. who has handed over the keys of the premises to the respondent no.2.

The order impugned in this appeal does not indicate that any such arguments on merits were advanced before the Learned Single Judge. By the order under challenge, only a date has been fixed in the matter. Hence, we do not find any illegality in the said order. If the appellant has any urgency in this matter, then, he would be at liberty to mention it before the Learned Single Judge and make out a case for early hearing of the writ petition or else he will have the opportunity to make out a case for interim relief. In these circumstances, we do not find any reason to interfere in the order of the Learned Single Judge.

The appeal is accordingly dismissed.

[PRAKASH SHRIVASTAVA, C.J.]

[RAJARSHI BHARADWAJ, J.]