

55 19.04.2024
NB Ct. 14

WPA 2157 of 2024

Rajendra Prasad Burnwal
Vs.
The State of West Bengal & Ors.

Mr. Sanath Kr. Roy,
Mr. Fazlur Rahaman,
Mr. Argha Banerjee,
Mr. Babul Hussain.
...for the petitioner.

Mr. Rajarshi Basu,
Mr. Anirban Dutta.
...for the State.

Mr. Arkadyuti Pahari,
Ms. Gargi Maity,
Ms. Raima Chatterjee,
Mr. Souptik Bhattacharyya.
...for the private respondents.

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

Report filed on behalf of the State is also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the owner of the property in question. The private respondents are his tenants for a portion of the ground floor of the premises. However, they have forcibly and illegally captured portion of the roof and thereafter, created a hole on the roof so as to inconvenience the petitioner. They are pouring garbage and water through the hole so that the petitioner gets disturbed. The petitioner has brought this to the notice of the police authorities, but no help has been rendered. They also did not pay rent for some time.

Accordingly, a money suit had to be filed, which has been decreed ex parte.

Learned counsel appearing on behalf of the private respondents denies the allegations and submits as follows. The private respondents are tenants of the petitioner in respect of a portion of the ground floor. They have not committed any disturbance or prevented the petitioner from doing any repair work.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. The building in question is in dilapidated condition. Inside portion of the concrete roof is falling out or clinging in several places and one such fall created a hole above the shop. But, sufficient space is not there for entry of human. Every morning the petitioner brings his items for sell from his house to the said shop and at the end of the day takes the items back home. The shop premises has no lock and key and is tied with a rope during night. Enquiry also revealed that when the petitioner tried to repair the hole of the roof, the respondent nos.6 to 10 put strong hindrance to it and threatened the petitioner with dire consequences. That is why a proceeding was initiated under Section 107 of the Code.

It appears that, as the tenants did not pay rent for some time, an ex parte decree was passed in the money suit in favour of the petitioner.

The police report reveals that the private respondents are preventing the petitioner from repairing a hole on the roof of his shop. The private respondents have no right to do so.

In the event the petitioner needs any police help at the time of repairing of the roof, he shall be at liberty to intimate the Officer-in-Charge of Kulti Police Station about the date/s of proposed repairs with a 24 hour's notice. The Officer shall arrange for adequate police presence at the spot to stand guard when the repair work is done.

Even otherwise, the police shall keep a sharp vigil at the locale and ensure that no breach of peace takes place.

With these observations, the writ petition is disposed of.

Since affidavits were not called for, the allegations contained in the writ petition are deemed not to have been admitted.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

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

(Jay Sengupta, J.)