

Kalpana Chatterjee
-vs-
The State of West Bengal & ors.

Mr. Subhadeep Chatterjee
Ms. Arpita Kundu
...for the petitioner
Mr. Tulsidas Roy
Mr. Mukteswar Maity
Mr. Tanmoy Sarkar
Ms. Nupur Chaudhuri
Mr. Trithankar Roy
...for the respondent nos. 5 & 6
Ms. Ipsita Banerjee
Mr. Suddhadev Adak
...for the State

Affidavit-in-opposition filed on behalf of the respondent nos. 5 and 6 is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner no.1 is a 69 years old lady running a shop at the tenanted premises in question since 1988. After demise of the mother of the petitioner, who was also a party to the agreement, the private respondents started creating trouble to get the petitioner somehow evicted. The petitioner approached the Tenancy Tribunal. However, the case there was dropped. The petitioner also approached the Civil Court. By an order dated 21.04.2023, the learned Civil Judge, Jr. Division, 1st Court, Barrackpore in Title Suit No. 109 of 2023 was pleased to restrain the defendants therein from interfering with the peaceful

possession of the plaintiff in the suit property. The order was extended from time to time. In violation of the same, the private respondents first attacked the shop, looted away articles and thereafter took forcible possession of the property.

Learned counsel appearing on behalf of the State relies on the report filed earlier and submits as follows. On the allegations of the petitioner, an FIR was lodged. Subsequently, a charge sheet has been submitted against the private respondents.

Learned counsel appearing on behalf of the private respondents submits as follows. The allegations made in the writ petition are denied. The proceeding before the Rent Controller initiated by the petitioner was dropped. It is also germane to mention that the petitioner had not been paying rent since January 2011. However, the private respondents did not forcibly evict the petitioner from the said premises. The private respondents are running a business there and having a trade license.

It appears that a civil suit is pending between the private parties.

One cannot but be taken aback at the starkly inconsistent stands taken by the private respondents. On one hand, they say that they had not evicted the petitioner from the said premises and on the other, they say that they are running the business there.

An order of a Civil Court granting an interim order of

injunction in favour of the petitioner exists. It has purportedly been extended from time to time. Therefore, the private respondents could not have been forcibly evicted the petitioner from the tenanted shop.

If any of the parties wants to establish any further right in respect of the said property, they shall have to do so before the Civil Court, but not by exercise of brute force.

If there is any violation of the order passed by the Civil Court, the petitioner shall be at liberty to approach the said Court for appropriate relief.

In the meantime, as an interim order of injunction exists in her favour and as the private respondents have claimed that they did not evict the petitioner from the shop room, the petitioner shall be at liberty to run the business at the said shop unless and until prevented by an order passed by a competent Court.

The police authorities shall keep a sharp vigil at the locale, ensure that no breach of peace takes place and see to it that no order of a Civil Court is violated.

With these observations, the writ petition is disposed of.

As affidavits were not called for, allegations are deemed not to have been admitted.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)

