

19.07.2024
Court No.09
Item no.02
CP

WPA No. 7121 of 2024

Gopal Das
Vs.
The State of West Bengal & ors.

Mr. Subhadeep Chatterjee
Ms. Arpita Kundu
.....for the petitioner.

Mr. Suman Sengupta
Mr. Debangshu Dinda
.....for the State.

The writ petition is not maintainable. The petitioner alleges that time and again his son and daughter-in-law have maltreated him and also attempted to oust him from the premises in question. This is a private dispute which cannot be adjudicated in a writ proceeding.

The petitioner submits that a question of law is involved. Whether the writ court can pass necessary directions upon the state authorities to evict the son and daughter-in-law, is the moot question. It is submitted that the agony of the parents should be looked into and the power of judicial review should be invoked to do substantial justice.

The petitioner alleges mental torture by the children and attempts of the children to grab the property. It appears that the petitioner had also initiated proceedings before the learned Executive

Magistrate, Barrackpore under Section 144(2) of the Code of Criminal Procedure. The records further reveal that the petitioner approached the learned Additional Chief Judicial Magistrate, Barrackpore under Section 156 (3) of the Code of Criminal Procedure. On the direction of the learned Magistrate in the complaint case, Ghola Police Station Case No.234/ 23 dated June 3, 2023 under Sections 447/448/323/325/380/357/506/120B/34 of the Indian Penal Code was registered. Upon completion of the investigation, a charge-sheet has been filed before the learned Additional Chief Judicial Magistrate, Barrackpore under Sections 448/323/506/34 of the Indian Penal Code. Copy of the charge-sheet has been produced by the State authorities.

Under such circumstances, the writ petition is not entertained. A writ of mandamus cannot be issued upon the State authorities with a direction to evict the son and daughter-in-law from the premises in question, in the facts and circumstances pleaded. The petitioner has not approached the appropriate forum. The state authorities have taken steps on the basis of the petitioner's complaint.

The petitioner may approach the police authorities for protection, and any other appropriate forum, in accordance with law.

There shall be no order as to costs.

All parties are to act on the basis of server copy
of this order.

(Shampa Sarkar, J.)