

13 16.05.2024
AN Ct. No. 01
RP

MAT 564 of 2024
with
IA No. CAN 1 of 2024

Ajay Kumar Pal & anr.
Vs.
Kalpana Chatterjee & Ors.

Mr. Tulshidas Ray
Mr. Tirthankar Roy

... For the appellants

Mr. Suddhadev Adak

... For the State

Mr. Subhadeep Chatterjee
Ms. Arpita Kundu

... For the private respondent

1. This intra-Court appeal filed by the private respondent is directed against the order dated 14.03.2024 passed in WPA 2314 of 2024. After elaborately hearing learned counsel for all the parties, we are of the clear view that the writ petition itself was not maintainable for more than one reason. Firstly, it is purely a dispute pertaining to an immovable property/shop room. The writ petitioner appears to have obtained an ex parte order of injunction in the civil suit and the matter is still pending. In the meantime, the writ petitioner alleged that the padlock put by the writ petitioner was broken and the appellant herein has forcibly evicted the writ petitioner and entered appearance.

2. Admittedly, all these issues are disputed questions of fact which can never be adjudicated in the writ petition. Moreover, the learned Single Judge has recorded in page 2 of the impugned order that the writ petitioner has

not been paying the rent since January, 2011. Therefore, such issues could not have been adjudicated in the writ petition as the writ petition as framed was not maintainable.

3. Hence, the appeal stands **allowed**. The order passed in the writ petition is set aside and the writ petition stands dismissed.

(T. S. Sivagnanam)
(Chief Justice)

(Hiranmay Bhattacharyya, J.)