

27 02.04.2024
NB Ct. 14

WPA 7840 of 2023

Usha Rani Dey
Vs.
The State of West Bengal & Ors.

Mr. Subhrajyoti Ghosh.
...for the petitioner.

Mr. Santanu Kr. Mitra, Id. SGA,
Mr. Anandamayi Ghosh.
...for the State.

Mr. Saibal Acharya,
Mr. Bidyut Baran Biswas,
Mr. Ranjit Kr. Rath.
... for the respondent nos.5&6.

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 while the private respondents are her sons. She was compelled to file an application under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. An order was passed directing the private respondents to allow the petitioner to run her business and her shop in the said premises. The Officer-in-Charge of Krishnaganj Police Station was asked to ensure the safety and security of the petitioner. This order was affirmed by the Appellate Authority. In spite of this and in violation of the same, the private respondents have prevented the petitioner even from returning home, far less carrying on

business from the said shop room. Police help was sought, but was refused. Incidentally, the petitioner had gifted away a part of the property to her sons, but the other part where the shop is, is still in the name of the petitioner.

Learned counsel appearing on behalf of the private respondents denies the allegations made in the writ petition and submits as follows. The private respondents have not prevented the petitioner from entering into the property or running her shop. In fact, the private respondents are even willing to maintain their mother. The only issue is that a third party interest should not be created in the said property.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. The petitioner has already obtained a favourable order under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The police had on one occasion escorted the petitioner back to her residence. The police are keeping a close watch on the developments in the locality.

It appears that on one occasion, the petitioner had to be escorted back to her residence by the police.

If there is a property in the name of the petitioner, the private respondents cannot, without any sanction of law, prevent her from accessing such property or, for that matter, carrying on business activities in the same. An order passed under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 has to be strictly complied with, especially when there is a clear reference made to the local police authorities to ensure the safety and security of the petitioner.

In view of the above, the local police authorities shall keep a sharp vigil at the locale, ensure that no breach of peace takes place, no harm ensues to the petitioner and see to it that no order of a civil Court is violated. Surveillance shall include frequent visits by police patrol.

If any untoward incident occurs or is apprehended by the petitioner, she shall be at liberty to call up the Officer-in-Charge of the local Police Station who shall then act in accordance with law.

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.

(Jay Sengupta, J.)