

06 07.05.2024
NB Ct. 14

WPA 8592 of 2024

Gopichand Swarnakar & Ors.
Vs.
The State of West Bengal & Ors.

Amit Ranjan Pati,
Mr. S. Chowdhury.
...for the petitioners.

Mr. Amitesh Banerjee Id.SSC,
Ms. Ipsita Banerjee.
...for the State.

Mr. Mrinal Kanti Ghosh.
...for the Municipality.

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioner is a tenant at the premises for the last 40-45 years. Initially, the property was owned by the respondent no.7. Now, the respondent no.8 claims that he had purchased the property from the said respondent no.7. Without due process of law, the private respondent no.8 was trying to evict the petitioners. Two suits were filed by the petitioners. The learned civil Court passed restraining orders directing the defendants not to dispossess the petitioners and not to change nature and character of the suit property. In spite of this, the structures are being totally demolished in order to construct a new building. They are not taking care of safety and security of the petitioners either. The police are hand in gloves with them. Instead of taking action against the private respondents in terms of the civil Court's order, they have filed an FIR against the son and relatives of the petitioners.

Learned counsel appearing on behalf of the private respondent no.8 denies the allegations and submits that the private respondent is a party in only one of the above-referred suits. The demolition is being done in pursuance of an order passed by the Municipality that the building is in a dilapidated condition.

Learned counsel appearing on behalf of the Municipality submits as follows. The private respondents had made a complaint before the Municipality that the building was in a dilapidated condition. After inspection, the Municipality ordered demolition of the building. However, it has been made clear that without permission of the Municipality, no fresh construction would be done in the property.

Learned senior standing counsel representing the State submits as follows. It is true that there is a civil Court's order, granting injunction in favour of the petitioners protecting him from dispossession. However, the Municipal authorities have also directed demolition of a portion of the building as the same is in a dilapidated state. As per instruction, the rooms occupied by the petitioners at the ground floor are not been disturbed.

It appears that the civil Court's order protects the petitioners' right as a tenant at the said premises. He is admittedly in occupation of two rooms, one room in the ground floor and one room in the first floor.

It is also true that the Municipality has directed demolition of the property because it is in a dilapidated condition.

Therefore, till a further order can be obtained in this regard from the civil Court after bringing to its notice the order passed by the Municipality, the demolition work may continue in respect of the other portions of the property, such that, the portions occupied by the petitioners are not disturbed.

During the demolition work, the private respondents shall take adequate care that no harm is done to the petitioners. A proper notice should be given to the petitioners about the kind of demolition work that would take place on a particular date with a copy of such notice being sent to the local police authorities.

However, 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 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.)