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10.05.2024
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Ct 14

WPA 9584 of 2023

Sukumar Pal
-vs-
The State of West Bengal & ors.

Mr. Saibal Kumar Acharyya
Mr. Pradip Paul
Ms. Renesa Dey
...for the petitioner

Ms. Sonal Sinha
Mr. Kartik Chandra Kapas

..for the State
Mr. Dhiman Ray
Mr. Dip Chanda

...for the respondent no. 6 & 7

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. The private respondent nos. 6 and 7 are his son and wife. The private respondents have been trying to disturb the possession and enjoyment of the property by the petitioner. Finally, they were able to oust the petitioner from his own residence. The private respondent no.6 claimed that he was gifted the property by his grand mother. This was challenged by the grand mother herself. Now, the petitioner has substituted himself in place of his

mother.

Learned counsel appearing on behalf of the private respondents denies the allegations and submits as follows. It is the petitioner who has actually ousted the private respondents from the residence. In fact, this writ petition is a counter blast to a proceeding instituting under Section 125 of the Code of Criminal Procedure by the respondent no.7. Due to non payment of the maintenance awarded, an execution case is pending. Significantly, the respondent no.7 was also constrained to lodge Sabang Police Station Case No. 373 dated 18.09.2018 under Sections 498A, 323, 307, 406, 506 IPC and Sections 3 and 4 of the DP Act.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. In the case started by the respondent no.7, inter alia, under Section 498A of the Penal Code, a charge sheet has been submitted. She has also initiated a proceeding under Section 107 of the Code. On the other hand, the petitioner also lodged Sabang Police Station Case No. 136 dated 28.04.2023, inter alia, under Sections 447, 323, 379, 506 and 34 of the Indian Penal Code. The same is being investigated.

It appears that a civil dispute exists between the private parties over the property in question.

If any of the parties wants to establish any further right in respect of the property, the same has to be done before a Civil Court.

It also appears that the police have taken steps on the

complaint filed by both the sides.

Therefore, let the police 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. The surveillance shall include frequent visits by police patrol.

With these observations, the writ petition is disposed of.

Since 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.)