

July 15, 2024
Sl. No.13
Court No.9
s.biswas

WPA 11181 of 2024

Biplab Das
vs.
The State of West Bengal and others

Mr. Sankar Mukherjee
Mr. Anupam Das
Mr. Soupal Chatterjee

... for the petitioner

Mr. K. J. Yusuf
Mr. Kazi Sajjad Alam

... for the State respondents

1. The writ petition is not maintainable. The petitioner has challenged the order passed by the learned Additional Sessions Judge, 1st Court at Serampore dated February 12, 2024.
2. By the order impugned, the learned Additional Sessions Judge allowed the criminal appeal by setting aside the order dated November 14, 2022, passed by the learned Judicial Magistrate, 5th Court, Serampore in Misc. Case No.208 of 2019. The respondent no.7 was allowed to reside in the shared household in the matrimonial house.
3. The father-in-law has approached the writ court assailing the order passed in the criminal appeal. It is submitted that the order should be set aside on the ground that the father-in-law has a remedy under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, (hereinafter referred to as the said Act), to oust

his daughter-in-law from the premises in question.

4. It is also submitted that the order was passed by the Additional Sessions Judge, without considering the provisions of the said Act and without appreciating that the father-in-law was not made a party in the appeal. Thus, the interference of this court has been prayed for.
5. First and foremost, the order was passed in a proceeding under the The Protection of Women from Domestic Violence Act, 2005 by a competent court. A judicial order cannot be assailed before a writ court. The petitioner has other remedies. The petitioner is at liberty to avail of such remedy.
6. Prayer B cannot be allowed because there is no proceeding at the instance of the father-in-law under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Thus, the writ court cannot be asked to answer a question in the vacuum. There are no conflicting orders passed by a competent court/Tribunal under the respective statutes. The petitioner invites the writ court to decide the question as to which law will prevail, in the absence of any proceedings under the Senior Citizen's Act.

7. Learned advocate for the State respondents submits that the order of the learned Additional Sessions Judge has been complied with.
8. Accordingly, the writ petition stands disposed of.
9. All the parties are directed to act on the basis of the server copy of the order.

(Shampa Sarkar, J.)