

WPA 11632 of 2017

**Gopal Bhanja Chowdhury
Vs.
State of West Bengal & Ors.**

**Mr. Debdutta Basu.
... for the petitioner**

**Mr. Dipayan Kundu.
... for the respondent no. 5**

**Mr. Amitesh Banerjee,
Mr. Suddhadev Adak.
... for the State**

1. This writ petition has been filed by the writ petitioner to seek an order establishing right of the writ petitioner as a tenant of the private respondent and ensure his possession over the disputed property, by declining the alleged intervention by the said respondent to the peaceful possession of the writ petitioner, over there.

2. According to the petitioner, since the days of his predecessors, they have been residing over the concerned premises. However, due to adamant and non-cooperating attitude of the landlord, that is the respondent no. 5, they had not been given rent receipts, for the last thirty years, in spite of remitting due rent to the concerned landlord.

3. The present dispute with regard to the landlord putting up iron grill gates allegedly at a place which is for ingress and egress to the tenanted portion of the property by the present petitioner, which the petitioner claims to be under his possession. Allegedly those are also kept closed by putting on padlock by the landlord, that is respondent no. 5.

4. The writ petitioner, by filing the present case, has sought for the relief of removal of the iron grill gates as well as directing the respondent nos. 3 and 4 to take adequate measures in accordance with law, for protection and preservation of life and properties of the petitioner.

5. The respondent no. 5 has contested this case by filing affidavit-in-opposition. According to the respondent no. 5/landlord, he has constructed iron grill gates being the landlord of the premises and it was necessary for preservation of the property. He says that there is no difficulty as regards the ingress and egress of the writ petitioner due to the reason of iron grill gates having been put up.

6. According to the said respondent, the writ petitioner is not entitled for any relief from Court, in this case.

7. Mr. Basu, learned counsel appearing for the writ petitioner says that there has been complaint to the police authorities by the present petitioner more than once, but to no avail. He further indicates that there has been a case by the present petitioner before the Executive Magistrate under Section 144 of the Code of Criminal Procedure.

8. Pursuant to the same there has been a police report being filed in Court. Also that pursuant to order of the Magistrate, an inventory of the articles kept in the said two tenanted rooms under padlock have also been prepared. He says further that the said inventory would categorically show that the articles kept in the rooms, which have been illegally locked by the respondent/landlord, belong to the writ petitioner,

denoting petitioner's possession therein and the same being restricted unlawfully by the said respondent/tenant, thereby causing restriction as to the free enjoyment of the tenanted property, by his client. He seeks appropriate relief for the petitioner.

9. Mr. Dipayan Kundu, learned counsel is appearing for the respondent no. 5 and Mr. Suddadev Adak, learned counsel is appearing for the State.

10. Both have a preliminary point of objection as regards the maintainability of the writ petition, that is, on the ground of the nature of dispute between the parties. They say that the present is a civil dispute between the parties related to the right, title and interest of the concerned property and would not be amenable to the writ jurisdiction of this Court.

11. They have further submitted in unison that the respondent nos. 3 and 4 would not have any effective part to play in solving civil dispute between the parties.

12. On perusal of the records and consideration of the submissions of the parties, this Court is of the finding that so far as any threat to the life and property of the writ petitioner is concerned, no material is available in this case.

13. There is a dispute evident from the records as well as submissions made by the parties. However, that is with regard to the rights of the parties as the landlord and his tenant, that is, the petitioner. Neither the respondent nos. 2 and 3 nor this Court would be competent to decide the dispute between the parties, of a civil nature, as stated above.

14. Under such circumstances, this Court is of the opinion that there is no sufficient ground for the writ petition to be entertained by this Court. The same is liable to be dismissed.

15. The writ petition being WPA 11632 of 2017 is dismissed.

16. However, this Court finds it proper to iterate that the respondent nos. 3 and 4 would have always a sacred and bounden duty, to extend to every citizens of the country adequate safeguard regarding their life and property.

17. Urgent Photostat certified copy of this order duly downloaded from the official website of this Court upon compliance all legal formalities.

(Rai Chattopadhyay, J.)