

WPA 11498 of 2024

Tapan Pal
-vs-
The State of West Bengal & Ors.

Mr. Srijib Chakraborty
Mr. Aditya Mondal
..for the petitioner
Mr. Subhrangsu Panda
Ms. Ina Bhattacharyya
...for the respondent nos. 6, 7 & 9
Mr. Omar Faruk Gazi
Ms. Susmita Das
...for the respondent no.8
Mr. Saptangsu Basu
Ms. Bratati Pramanick
...for the respondent no.10
Mr. T. M. Siddiqui
Ms. Amrita Lal Chatterjee
...for the State

Report filed on behalf of the State regarding intimating the private respondents as filed in Court is taken on record.

Report dated 24.04.2024 filed on behalf of the State is also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner has a rented shop room styled as “Subodh Poshak Bhawan” situated at Bagnan Station Road, Howrah. Initially the petitioner’s father was allowed to use a shop room on rent by the predecessor in interest the respondent nos. 6 and 7. For some time, the private respondents had been disturbing the possession of the said shop room. This prompted the petitioner to file a

civil suit. There was an order of status quo granted on 09.04.2024. Even after this, the disturbance continued. There was a letter given by the Howrah Zilla Parishad that the petitioner was required to attend a meeting where the local MLA/respondent no.10 will be present to explain on what basis he was occupying a shop room of the Zilla Parishad. Subsequently, the local miscreants owing allegiance to the respondent no.10 illegally entered into the shop room, stole away articles and then forcibly put a padlock on the shop room. A complaint was made before the SDPO, Uluberia, but no steps were taken.

Learned senior counsel appearing on behalf of the respondent no.10 denies the allegations and submits as follows. Significantly, in the complaint lodged by the petitioner, there is no mention of the name of the respondent no.10. He has been needlessly dragged into this matter. If the MLA's presence was sought by the Zilla Parishad earlier, it was only to facilitate a settlement.

Learned counsel appearing on behalf of the respondent nos. 6, 7 and 9 denies the allegations and submits as follows. The submissions advanced on behalf of the respondent no. 10 are adopted. The private respondents are also not been named in the complaint of the petitioner.

Learned counsel appearing on behalf of the respondent no.8 denies the allegations and submits that his client is in possession of the shop room.

Learned counsel appearing on behalf of the State relies

on the report and submits as follows. There is a civil suit pending between the private parties. On the complaint of the petitioner, a specific FIR being Bagnan Police Station Case No. 220 dated 23.04.2024 under Sections 447, 427 and 379 of the Indian Penal Code has already been registered. The police are keeping a close watch on the developments in the locality.

It appears that the Zilla Parishad has already undertaken a proceeding seeking an explanation from the petitioner about how was he occupying and using the shop room. This is a prima facie vindication of the fact that the petitioner was in occupation of the shop room.

There is already a civil suit pending. Any of the private parties including the respondent no.8, who claims possession of the shop room, shall be at liberty to establish their right before the competent Civil Court. However, civil rights cannot be established by use of brute force

Putting a padlock on somebody's door is only an act of mischief and cannot be termed as a legal means of taking over possession. Significantly, none of the appearing respondents claim that it is they who had put the padlock. The police are also not aware as to who put the padlock. The petitioner says it is not his.

In view of the above, let the padlock be removed by the police at the earliest and the status quo order passed by the Civil Court be respected.

Since an FIR has already been registered, the other

prime grievance of the petitioner has already been redressed.

Therefore, no further order need be passed in this regard.

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 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.)