

23 30.01.2024
NB Ct. 14

WPA 12953 of 2023

Tanjila Molla @ Tanjila Bibi
Vs.
The State of West Bengal & Ors.

Mr. Ramij Munsi,
Mr. Rithik Chowdhury,
Ms. Champa Pal.
..for the petitioner.

Mr. Amitesh Banerjee Id.SSC,
Mr. Suddhadev Adak.
...for the State.

Mr. Prosenjit Mukherjee,
Mr. Jahangir Hossain.
...for the private respondent.

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.

A copy of an order dated 10.08.2022 passed by a coordinate Bench of this Court in *WPA 16533 of 2022* is also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the 82 years old mother of the respondent no.9. The respondent no.7 is the grandson of the petitioner and the respondent no.8 is the wife of the respondent no.7. The petitioner was allotted the property in question under the Rural Housing Scheme called 'Gitanjali' project. Since then she has been occupying the said property. The private respondents are trying to grab the said property and

oust the petitioner from her own residence. As of now, the private respondents are not in possession of any part of the property. Earlier, the petitioner was constrained to approach the Maintenance Tribunal for evicting the private respondents as they had been occupying a portion of the property at that point of time. A favourable order was passed by the said Tribunal. However, the private respondents are creating disturbances off and on. This was brought to the notice of the police, but no steps were taken.

Learned counsel appearing on behalf of the private respondents submits as follows. There is no law by which at least under the Maintenance and Welfare of Parents and Senior Citizens Act other relatives occupying a portion of the property of a senior citizen could be evicted. The order passed by the Maintenance Tribunal has been challenged before the Writ Court. By an order dated 10.08.2022 passed in *WPA 16533 of 2022*, a coordinate Bench of this Court has admitted the petition for hearing. Affidavits were directed to be exchanged. The private respondents are still in possession of a portion of the said property, which is incidentally not the property which the petitioner claims to have obtained under the Rural Housing Scheme.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. On the complaint of the petitioner, the police have already acted by instituting a proceeding under Section 107 of the Code and also by registering one FIR and two proceedings under Section 107 of

the Code. In fact, charge sheet has been submitted in relation to the police case.

It does not appear from the order passed by the coordinate Bench that the direction granted by the Maintenance Tribunal has been stayed. However, the matter is pending consideration.

Admittedly, the petitioner was allotted a property under a Rural Housing Scheme and she is purportedly staying there. Irrespective of whether she has a right to evict other occupants under the Act of 2005 or not, her stay at the said property can fairly be protected.

Let no disturbance be caused to the stay of the petitioner at the said property.

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 Court is violated.

In the event any untoward incident occurs or is apprehended by the petitioner, she shall be at liberty to contact the Officer-in-Charge of the Pandua Police Station who shall then act in accordance with law.

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.)