

D/L 8
03.10.2024
Kausik
ct.no.35

W.P.A. 15094 of 2022

**Nagendra Prasad Sinha and Anr.
Versus
State of West Bengal and Ors.**

Mr. Rahul Karmakar
Ms. Ishita Kundu

...for the petitioners.

Mr. Farhan Ghaffar
Mr. B.A. Shah
Mr. Zafar Jilani

...for the respondent no. 3.

Mr. Suddhadev Adak

...for the state.

The writ petition was filed in the year 2022.
Learned advocate appearing for the petitioners submits that for no fault of them, the case has been pending before the High Court since the year 2022. The prayers which have been advanced in the writ petition are for commanding the respondents to give effect to the written complaint dated 07.06.2022 and remove the respondent no. 3 from Flat No. A-7, Sangam, 2, Wood Street, Kolkata 700 016 being the

residence of the petitioner and direct her to live with her husband at Flat No. 403, Asha Apartment, Chunavati, Panchara, Howrah – 711 317.

Learned advocate appearing on behalf of the respondent no. 3 submits that there is already a direction passed by the learned Metropolitan Magistrate, 14th Court, Calcutta relating to the right of residence of the respondent no. 3.

There are two acts. One being the Protection of Women from Domestic Violence Act, 2005 and the other being the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Both the legislations have incorporated protection of the right. The first in respect of the wife/daughter-in-law and the second in respect of the senior citizens. The courts or the statutory forum for deciding such issues have also been incorporated under the respective statutes. Considering that for more than two years the writ petition is pending before this court, I find no urgency in involving the police authorities for exercising their powers in a manner which would be in fact an execution of the order passed by any of the forums concerned under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 or the Protection of Women from Domestic Violence Act, 2005.

Learned advocate appearing for the petitioner has referred to a direction passed by a co-ordinate bench in WPA 10835 of 2025. The same was passed in different set of facts and circumstances. This court finds that unnecessarily the petitioners have wasted two years before the High Court and having regard to the order passed by the learned Metropolitan Magistrate, until and unless the same is modified or varied by the higher forum of the learned Metropolitan Magistrate concerned, this Court under Article 226 of the Constitution of India will not interfere in respect of orders passed by a statutory court.

Accordingly, I hold that the writ petition is not maintainable.

WPA 15094 of 2022 is dismissed.

Pending applications if any are consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)