

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 28.06.2024
DELIVERED ON: 28.06.2024

CORAM:

**THE HON'BLE MR. CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA**

**M.A.T. 1246 of 2024
With
IA No. CAN 1 of 2024**

**Santosh Kumar Sahu @ Sahoo
Versus
The State of West Bengal & Ors.**

Appearance:-

**Mr. Sabir Ahmed
Mr. Shraman Sarkar
Mr. Dhiman Banerjee**

.....for the Appellant

**Mr. Rajarshi Basu
Mr. K. M. Hossain**

.....for the State

**Mr. Sakya Sen, Sr. Adv.
Mr. Srijib Chakraborty
Mr. Bijay Bag
Mr. Sumitava Chakraborty
Ms. Bratati Pramanick**

.....for the respondent no.7

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. This intra-Court appeal is directed against an interim order passed by the learned Single Bench directing the police authorities to break open a padlock and hand over possession of a flat to the writ petitioner. The appellant claims that the writ petitioner voluntarily handed over possession of the premises to the appellant and there was a money transaction between the writ petitioner and the appellant and in support of such stand, a document termed as a 'Promissory Note' is referred. The appellant did not have an

opportunity to file his affidavit and place his documents based on which he claims that the writ petitioner voluntarily handed over possession of the property to the appellant.

2. In the writ petition, in paragraph 10, the writ petitioner stated that the flat is forcibly under lock and key of the respondent nos.7 and 8, who is the appellant in this appeal.
3. The question as to whether the writ petitioner voluntarily handed over possession of the property to the appellant/respondent nos.7 and 8 in the writ petition, whether there was a money transaction between the parties, whether the claim of the writ petitioner that she was forcibly thrown out of the property and that her belongings are still inside the property are all questions of fact, which in our prima facie view, cannot be adjudicated in a writ petition. However, we do not express any final opinion on this aspect, since the writ petition is pending and the matter has been directed to be listed before the learned Single Bench on 3rd July, 2024.
4. Therefore, we direct whatever the *status quo*, as on date, shall be maintained and the appellant/respondent nos.7 and 8 in the writ petition shall not enter into the property nor alter the physical features and are granted liberty to file affidavit in the writ petition so that the writ petition can be heard out on the date fixed by the learned Single Bench.
5. With the above observations, appeal and the connected application (IA No. CAN 1 of 2024) stand disposed of.
6. No costs.
7. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(HIRANMAY BHATTACHARYYA, J.)