

08
10.07.2024
d.p.

**In The High Court At Calcutta
Constitution Writ Jurisdiction
Appellate Side**

W.P.A. 17481 of 2024

**Asim Kumar Guchhait
-versus
The State of West Bengal & Ors.**

**Mr. Srijib Chakraborty,
Mr. Aditya Mondal.
...For the Petitioner.**

**Mr. Susovan Sengupta,
Mr. Manas Kumar Kundu.
...For the State.**

**Ms. Mekhla Sinha,
Ms. Malabika Roy Dey.
...For the Howrah
Zilla Parishad.**

**Mr. Saptansu Basu,
Mr. Sounak Mondal.
...For the Respondent no.7.**

**Mr. Subhrangsu Panda,
Ms. Ina Bhattacharyya.
...For the Respondent
Nos. 5 & 6.**

Affidavit-of-service filed in Court today is taken on record.

The petitioner claims to be a tenant of the lessee of a shop room belonging to the Howrah Zilla Parishad. In support of the submission that the petitioner was in possession of the said shop room he relies upon the trade licence issued by the Gram Panchayat in his favour and the certificate of the Howrah Zilla Parishad showing that the petitioner applied for obtaining licence in his favor in respect of the said shop room. Certain rent receipts have also been annexed to the writ

petition in support of payment of rent of the said shop room from the year 2012 till 2024.

The petitioner alleges that the private respondents forcefully ousted the petitioner from the shop room and stole and looted the valuable goods and articles along with cash which was inside the shop room. Complaint was lodged before the police but no action is reported to be taken.

The petitioner relies upon an unreported order passed by a coordinate Bench of this Court on 6th May, 2024 in WPA 11498 of 2024 in the matter of Tapan Pal –vs- The State of West Bengal & Ors. wherein the Court held that putting a padlock on somebody's door is only an act of mischief and cannot be termed as a legal meaning of taking over possession.

Learned senior advocate appearing on behalf of the respondent no. 7 submits, upon instructions, that his client is no way connected with the subject shop room.

Learned advocate appearing on behalf of the respondent nos. 5 and 6 also submits that his clients are no way related to the issue in question.

None represents the respondent no. 8.

Report filed by the Inspector-in-Charge, Bagnan Police Station signed on 9th July, 2024 mentions that the complaint filed by the petitioner was enquired and it revealed that the shop is situated on the land of the Howrah Zilla Parishad and the respondent no. 8 claimed to be the original lease holder of the land from the Zilla Parishad. It was learnt that the respondent no.

7 who is a relative of the respondent no.8 allowed the petitioner to use the said shop room for his business. The respondent no. 7 kept the key of the shop room with him and the petitioner occasionally came to the shop.

The report further mentions that the police is keeping strict vigil to maintain law and order.

The complaint of the petitioner has been registered and Bagnan Police Station Case No.350/24 under Sections 447/427/341/323/379/506/34 IPC has been initiated.

Upon hearing the submissions made on behalf of all the parties and on perusal of the report filed by the police, it appears that the police have conducted a preliminary inquiry and have come to learn that the land belongs to the Howrah Zilla Parishad leased out in favour of the respondent no. 8. The other private respondents are no way related to the said property.

As none claims to put padlock over the subject shop room, the petitioner will be entitled to open the padlock and use the same. If the Howrah Zilla Parishad, being the lessor, has any objection with regard to the use of the shop room by the petitioner, then the Howrah Zilla Parishad may take necessary steps in accordance with law.

The police are directed to continue the investigation in accordance with law and conclude the same at the earliest.

In the event the petitioner faces any resistance in opening the padlock, it will be open for the petitioner to

approach the police for help and the police is directed to render all necessary help to the petitioner for opening the padlock and using the shop room peacefully.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)