

23.09.2024
rc/ct.no.34
Item No.34

**CRR No. 3307 of 2024
with
CRAN No. 1 of 2024**

**In the matter of : Gita Mahensaria & Anr.
Vs.
State of West Bengal & Anr.**

Mr. Ayan Bhattacharjee
Mr. Pawan Kumar Gupta
Mr. Anurag Bagaria
Ms. Sofia Nesar ...for the Petitioners

Mr. Debansh Sonthalia ...for the O.P.No.2

Mr. Debasish Roy
Mr. Rudradipta Nandy
Ms. Nahid Ahmedfor the State

Report submitted by the State is taken on record.

The petitioners have assailed the order passed by the learned Additional District Judge, 1st Court, Barasat on April 20, 2024 in ST No. 01(10) of 2021 turning down their prayer for unlocking the house being AJ 226, Salt Lake City, Sector-II, Kolkata 700 091 and allowing them to reside therein since the house was being used by the petitioners for their residential purpose.

Learned counsel for the petitioners takes this Court to the copies of passport, voters' identity cards and Aadhar Cards of the petitioners which prima facie suggest that the petitioners are ordinarily residents of the said address.

Learned counsel for the State opposes the prayer and submits that the petitioners have not been able to produce a single scrap of paper in support of their title or possession in respect of the plot in question.

Learned counsel for the private opposite party/ defacto complainant submits in the same tune with the petitioners and seeks unlocking of the house for residential purpose of the petitioners. Learned counsel submits that the petitioners have been residing in the said house all through out.

It appears from the record that the prayer of the petitioners was turned down by the learned Trial Court solely on the ground that the petitioners were unable to produce any document to prove their ownership of the plot in question. All the documents on record including the charge sheet submitted by the Investigating Officer suggests that the petitioners were ordinarily residing of the said house. Title of the petitioners in respect of the house cannot be dealt with either by this Court or by the learned Trial Court in a criminal proceedings. Since admittedly the petitioners were residing in the premises in question until they were arrested in connection with the present FIR, their possession in respect of the premises needs to be restored at the earliest.

In view of the above, the revisional application being CRR No. 3307 of 2024 is allowed.

The order impugned dated April 20, 2024 passed by the learned Additional District Judge, 1st Court, Barasat in ST No. 01(10) of 2021 be quashed.

The opposite party/State is directed to restore possession of the premises being AJ 226, Salt Lake City, Sector-II, Kolkata 700 091 in favour of the petitioners within 7 days from date.

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

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh,J)