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23.09.2024
KC

WPA 20859 of 2024

Narendra Kumar Mishra
Vs.
The State of West Bengal & Ors.

Mr. Sanjib Seth
... for the petitioner.

Mr. Sudipta Dasgupta
Mr. A. N. Naskar
Mr. S. Nayek
Ms. S. Chakraborty
... for the private respondent.

Mr. Rajarshi Basu
Mr. A. D. Sarkar
... for the State.

Affidavit-of-service filed in Court be kept with
the record.

Report filed by the State be kept with the record.

The petitioner claims to be a tenant under the
respondent no. 4 in respect of one bedroom, one kitchen,
common user of privy and bath in the ground floor along with
common user of staircase of the 1st floor roof of a single
storied building situated on L.R. Khatian No. 356, L.R. Dag No.
567, Mouza Podra, P.S. Sankrail, District Howrah.

The petitioner states that on March 23, 2024, the
petitioner went to his native village at 'Bhadrak', Orissa for

performing funeral rites of his uncle. The petitioner claims that when he returned back on April 6, 2024, he found that the 4th respondent had forcibly taken possession of the tenanted premises.

The learned advocate for the private respondent submits that the petitioner filed a civil suit being T.S. No. 354 of 2024 before the learned Civil Judge (Junior Division), 5th Court, Howrah and the prayer for injunction was rejected by the learned Civil Judge by an order dated March 15, 2024. The petitioner claims to have lodged a complaint before the Inspector-in-Charge, Sankrail P.S. stating that the 4th respondent has forcibly taken possession of the tenanted premises and all the valuable documents, articles etc., are lying in the bed room of the tenanted premises.

It is not in dispute that the title suit praying for declaration of tenancy right and for injunction being T.S. No. 354 of 2024 is pending before the learned Civil Judge (Junior Division), 5th Court, Howrah. The alleged dispossession of the petitioner from the immovable property being a disputed question of fact requires a full fledged trial on evidence. The Writ Court cannot decide such dispute between private parties.

Since the Civil Court is in seisin of the matter and it has been alleged that during the pendency of the said suit the petitioner has been forcibly evicted from the property, which is the subject matter of the civil suit, the petitioner is left free to approach the Civil Court for appropriate relief with regard to restoration of possession of the alleged tenanted premises.

For the aforesaid reasons, this Court is not inclined to pass any order in this writ petition directing restoration of possession in favour of the petitioner.

With the above observations and directions, the writ petition stands disposed of.

There shall, however, be no order as to costs.

(Hiranmay Bhattacharyya, J.)