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24.09.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 20916 of 2024

Haji Solaiman Gazi
Vs.
State of West Bengal & Ors.

Mr. Sourav Mondal,
Mr. Rony Mondal
...for the petitioner

Mr. Susovan Sengupta
Mr. Subir Pal
...for the State

Mr. Raghunath Chakraborty,
Ms. Mohana Das
...for the Municipality

Mr. Subhayan Barik
...for the respondent nos. 5 and 6

The petitioner claims that the respondent nos. 5 and 6 made illegal construction on the property of the petitioner. Pursuant to an order passed in W.P.A 8731 of 2021, the Maheshtala Municipality passed an order of demolition and a portion of the unauthorized construction has been demolished. The petitioner lodged a complaint before the Officer-in-Charge, Rabindranagar Police Station on August 06, 2024 alleging that the respondent nos. 5 and 6 along with several other antisocials came to the house of the petitioner and damaged the house by pelting bricks, water pipes, window glasses, plastic water reservoir and CCTV camera and also blocked

the ingress and egress of the house of the petitioner. In the said complaint the petitioner has specifically stated that he is homeless and due to the fear of the assailants he is unable to return home. Thereafter, the petitioner lodged another complaint through his learned Advocate's letter dated August 06, 2024, wherein it has been stated that in case the police authorities fail to clear the ingress and egress of his client's house and fail to comply with the order dated March 20, 2024 passed in W.P.A. No. 7902 of 2024, the petitioner shall file a contempt application without further reference.

Learned Advocate appearing for the private respondents submits that the allegations leveled against the private respondents are without any basis. He further submits that the private respondents have not ousted the petitioner from his house and also not preventing the petitioner from returning to his house.

Mr. Sengupta, learned Advocate appearing for the State submits that pursuant to the complaint lodged by the petitioner, steps have already been taken and charge sheet has been filed. He files a report of the Inspector-in-Charge of Rabindranagar Police Station, dated August 27, 2024.

It appears from the said report that pursuant to the complaint lodged by the petitioner,

Rabindranagar P.S. Case No. 381/2024 dated August 07, 2024 under Section 126(2)/329(4)/324(4)/351(2) and 3(5) of B.N.S. has been started against the private respondents. The report further states that during the investigation all the F.I.R. names accused persons have surrendered before the Court of the learned Additional Chief Judicial Magistrate, Alipore on August 21, 2024 and they were released on bail. The charge sheet has also been submitted on August 23, 2024 under Sections 126(2)/329(4)/324(4)/351(2) and 3(5) of B.N.S against all the F.I.R. named accused persons. Therefore, it appears that steps have been taken by the police authorities on the basis of the complaint lodged by the petitioner.

Insofar as the allegation that the order passed in W.P.A. 7902 of 2024 on March 20, 2024 is violated, it will be open to the petitioner to file a contempt application as has been specifically stated in the letter of the learned advocate dated August 06, 2024.

In the event the petitioner has been forcibly dispossessed from the immovable property and wants restoration of possession of such property, the petitioner will be at liberty to approach the competent civil court for such relief.

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

After this order is dictated, the learned Advocate for the petitioner submits that in case the petitioner lodges a complaint before the police authorities praying for police assistance to enable the petitioner to enter into the property, the police authorities should be directed to render assistance to the petitioner. It is observed that the police authorities are duty-bound to see that no breach of peace takes place at the locale.

Whether the petitioner has any right in respect of the immovable property and whether he is entitled to an order for recovery of possession, the same cannot be decided by the police authorities and, for such relief, the petitioner has to approach the competent civil court.

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

Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance of necessary formalities.

(Hiranmay Bhattacharyya, J.)