

Sl.59
25.09.2024
S. Gayen
ct.no.7

W.P.A. 21734 of 2024

**Biswanath Halder & Ors.
Versus
State of West Bengal and Ors.**

Mr. Lakshmi Nath Bhattacharya
Mr. Sudarshan Ghosh
...for the petitioners.

Mr. Wasim Ahmed
Sk. Md. Masud
...for the State Respondents.

Affidavit of service filed in Court today is taken on record. Learned advocate for the petitioner submits that the respondents have been duly served. Despite notice, none appears for the private respondents.

The petitioner alleges that no steps have been taken pursuant to the complaint lodged by the petitioner vide letter dated 8th of August, 2024.

It has been alleged in the said complaint that the private respondents herein have put a padlock on the rolling shutter of the shop room of the petitioner.

The petitioner claims to be the owner of the property and alleges that since the private respondents have put a padlock, the petitioner is unable to utilize his shop room and therefore his right

to livelihood is being seriously affected. The petitioner prays that a direction be passed upon the police authorities to remove the padlock.

Upon going to the complaint it appears to this Court that the grievance of the petitioner is that the petitioner has been forcibly dispossessed by a private party from an immovable property without due process of law. The petitioner alleges that he was dispossessed from the shop room on 5th of August, 2024.

The issue as to whether the petitioner was in possession of the shop room on 5th of August, 2024 is a disputed question of fact which is to be adjudicated by trial on evidence. Such disputed question of fact cannot be decided by a writ Court. In view thereof this Court is not inclined to pass any order directing the police authorities to open the padlock.

However, since the complaint has been lodged vide letter dated 8th of August, 2024, the Inspector-in-Charge, Bakultala Police Station is directed to consider the complaint and to take steps in accordance with law if the complaint discloses a cognizable offence. If the police authorities decide against registration of the FIR, the reasons therefor are to be communicated to the petitioner within a

period of two weeks from the date of receipt of the server copy of this order.

The report submitted by the learned advocate for the State is taken on record.

The petitioner is left free to approach the proper forum for restoration of possession of the shop room in accordance with law.

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

Needless to mention that the authorities of the local police station shall see that no breach of peace takes place at the locale.

However, there will be no order as to costs.

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

(Hiranmay Bhattacharyya, J.)