

38 23.04.2024
AN Ct. No. 01
RP

MAT 1767 of 2023
with
IA No. CAN 1 of 2023

Mita Bhaduri
Vs.
State of West Bengal & Ors.

Mr. Partha Pratim Roy
Mr. Anirban Das

... For the appellant

Mr. Amitesh Banerjee
Mr. Suddhadev Adak

... For the State

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
Mr. Kaustav Bhattacharya
Ms. Sinjini Chakraborty
Ms. Priyanka Jana

... For the respondent no. 6

1. We have heard learned counsel for all the parties elaborately.

2. This intra-Court appeal filed by the writ petitioner is directed against the order dated 10.08.2023 passed in WPA 17724 of 2023. The writ petition was filed to direct the Police Authorities to render assistance to restore possession of the appellant in respect of the property in question. Such a prayer cannot be acceded to and the learned Single Judge rightly did not grant such a prayer. However, the case of the appellant is that he has lodged a police complaint against the private respondents for having trespassed to his property and forcibly thrown him out of the property despite the fact that the possession of the property in question was delivered to the appellant by way

of execution of the order passed in J. Misc. Case No. 26 of 2012 by the learned Civil Judge, Junior Division, 2nd Court, Paschim Medinipur. So far as the restoration of possession is concerned, the same being a civil right, the appellant has to agitate it before the appropriate forum, however, if there is an allegation that the respondent has forcibly trespassed and thrown out the appellant out of the property and caused physical injuries that should be investigated by the respondent Police.

3. Learned counsel appearing for the private respondent submitted that as against the order passed by the Civil Court, an appeal has been filed but, however, there is an application under Section 5 of the Limitation Act which is pending. The fact remains that as on date, there is no order of stay of the order passed by the learned trial court which as on date enures in favour of the appellant.

4. Hence, the appeal stands **disposed of** by directing the 6th respondent herein to take the complaint lodged by the appellant and cause an investigation and if a cognizable offence is made out, an F.I.R. be registered and the accused be proceeded against in accordance with law.

5. Consequently, the connected application also stands **disposed of**.

(T. S. Sivagnanam)
(Chief Justice)

(Hiranmay Bhattacharyya, J.)

