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07.10.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 24009 of 2024

Smt. Soma Jha
Vs.
State of West Bengal & Ors.

Mr. Abhrajit Mitra, Ld. Sr. Adv.,
Mr. Satadeep Bhattacharyya,
Mr. Saptarshi Datta,
Ms. S. Ghosh,
Mr. Pourush Kanti Pal,
Mr. Debdut Hore
...for the petitioner

Mr. Vimal Kumar Shahi,
Ms. Rupsha Chakraborty
...for the State

Mr. Sourav Chatterjee,
Mr. Avishek Prasad,
Mr. Sourodeep Singha
...for the respondent no. 7

Affidavit of service filed today is taken on
record.

Despite service, none appears for the private
respondent nos. 4, 5, 6 and 8.

The petitioner claims that her father was
performing the Durga Puja in the temple, which is
situated within the property of the petitioner and
her co-sharers. The father of the petitioner died on
May 16, 2009 and upon his death, his share
devolved upon the petitioner and one Sujit Mishra,
the brother of the petitioner. The petitioner states
that after the death of her father, her brother, Sujit

Mishra was performing the Durga Puja in the temple. However, in the year 2023, the petitioner's brother, suffered from a neurological disorder, for which he is not physically capable to perform the Durga Puja in the said temple for this year (2024). Petitioner claims that she is making arrangements for performing the Durga Puja in the said temple for this year. The petitioner has approached this Court praying for an order directing posting of police picket in the property in order to ensure that there is no breach of peace at the time of performing the Durga Puja.

Mr. Mitra, learned Senior Counsel representing the petitioner submits that the private respondents herein are not allowing the petitioner to perform the Durga Puja and also are obstructing her entry into the temple.

The learned Advocate appearing for the private respondent no. 7 submits that the petitioner is not the absolute owner of the property wherein the temple is situated. He submits that there are other co-sharers, who have not been impleaded in this writ petition. He further submits that the villagers including the private respondents, along with the family members of Shakti Ranjan Misra, i.e. the father of the petitioner herein, were jointly performing the Durga Puja and the same was done till the year, 2023. He next submits that the

private respondents do not have any objection if the petitioner herein participates in the performance of the Durga Puja for this year (2024). He submits that the petitioner has taken away some of the jewelleries of the Goddess Durga, for which, a complaint has been lodged by the 7th respondent before the Superintendent of Police, District-Malda, by a letter dated August 29, 2024.

The learned Advocate appearing for the State files a report of the Inspector-in-Charge, Ratua Police Station, dated September 20, 2024, which is taken on record.

After going through the said report this Court finds that it has been stated in the report that the police authorities during enquiry communicated with the priest and caretaker of the temple and from their statements it revealed that the villagers are worshipping the Goddess Durga since the year 1967 at the temple. The said report further states that during enquiry, no evidence could be established that the petitioner herein participated in the worship of Goddess Durga since the death of her father. The report further states that as a dispute arose over the worship of Goddess Durga, a prosecution under Section 107 of the Criminal Procedure Code against both the parties have been submitted with a view to maintain peace by the party members.

After hearing the learned Advocates appearing for the parties it appears to this Court that there is dispute between the petitioner and the private respondents herein as to who is entitled to manage the performance of the Durga Puja.

The learned Advocates for the petitioner and the private respondent no. 7 uniformly submit that they do not have any objection if the petitioner and the private respondents jointly participate in the performance of the Durga Puja for this year (2024).

The Inspector-in-Charge, Ratua Police Station, is directed to ensure that no breach of peace takes place at the time of performing the Durga Puja at the temple situated at Village- Kahala, L.R. Dag No. 83, L.R. Khatian Nos. 230, 323, 389, 426 under Mouza- Habibpur Gobi, within the jurisdiction of Ratua Police Station, in the District of Malda.

It will be, however, open to the private respondent no. 7 to pursue his complaint dated August 29, 2024 in accordance with law.

Since the learned Advocate for the private respondent no. 7 has submitted that the private respondents do not have any objection in the petitioner's participating in the performance of the Durga Puja, the Inspector-in-Charge, Ratua Police Station, shall ensure that the entry of the petitioner in the temple for participating in the Durga Puja is not obstructed and the petitioner also shall not

create any obstruction in the performance of the Durga Puja by the villagers including the private respondents.

Since no affidavits have been called for, the allegations contained in the writ petition shall not be deemed to have been admitted.

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

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.)