

WPA 23882 of 2023

Mandira Kundu (Sahu)

-vs-

The State of W.B. & ors.

Mrs. Fatima Hassan

Mr. Asif Sahail Tarafdar

Ms. Oishik Chatterjee

...for the petitioner

Mr. Animesh Das

...for the respondent no.4

Mr. Tarun Kumar Ghosh

Ms. Suvasree Ghose

...for the State

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is a 55 years old married lady. She had been thrown out of her matrimonial home by the husband/ private respondent. Earlier she had filed a suit for gaining entry into the premises as the married wife. As a compromise was proposed, she did not appear and the suit was dismissed. However, she was granted a sum of Rs. 1800/- under Section 125 of the Code of Criminal Procedure. In addition, she was granted a sum of Rs. 4000/- as monetary relief under the provision of the Protection of Women from Domestic Violence Act. However, her prayer for an order of residence was not adjudicated at the interim stage. Her suit for restitution of conjugal rights is also pending for long. As a married wife, she has a right to enter

into her matrimonial home. She seeks police protection in this regard.

Learned counsel appearing on behalf of the private respondent no.4 submits as follows. The allegations made in the writ petition are denied. There are a number of litigations foisted by the private respondent. After failing in all these, the petitioner has directly come up before this Court to seek police help for entering into the property. This is not tenable in the eyes of law. Her prayer for getting an entry into the residence was made in a suit that was dismissed for default. Although she prayed for a residence order under the Protection of Women from Domestic Violence Act, the same was not awarded.

Learned counsel appearing on behalf of the State submits that the dispute between the private parties is absolutely civil in nature.

It appears that a family dispute exists between the private parties. Several suits and cases are pending between them.

The petitioner has already made a prayer for an order of residence under the Protection of Women from Domestic Violence Act and the proceeding is pending. She shall be at liberty to file a prayer for an interim relief in this regard before the learned Court.

No case is made out for police inaction in the writ petition.

Therefore, no further order need be passed in this

regard.

With these observations, the writ petition is disposed of.

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

(Jay Sengupta, J.)