

11.11.2024
Item No.13
Ct. No.35
dc.

W.P.A. 25326 of 2024

**Smt. Bandana Das
versus
The State of West Bengal & Ors.**

Mr. Gopal Mondal ... For the Petitioner.

Mr. Jaydip Banerjee,
Mr. Balarko Sen ... For the State.

Mr. Abir Lal Chakraborty
 ... For the Respondent Nos. 8 & 9.

Learned advocate appearing for the petitioner submits that the property was gifted to her, in spite of the same, the private respondents are exercising excess. The same has been complained to the police authorities and petitioner has also approached the learned Executive Magistrate under Section 126 of BNSS and under Section 163(2) of BNSS. The learned advocate for the petitioner further submits that the petitioner is being subjected to physical and mental torture and there is every possibility of illegal encroachment.

Learned advocate appearing for the private respondent nos. 8 and 9 submits that a suit for declaration and injunction is pending between the parties.

Having considered that the parties are before the civil court as well as they have approached the learned Executive Magistrate, in spite of the same, if there are accusations of physical and mental torture, then this Court having regard to the

background of the case would not invoke its jurisdiction under Article 226 of the Constitution of India.

The petitioner would be at liberty to approach the jurisdictional criminal court under Section 175(3)/223 of the BNSS, 2023. The learned jurisdictional court would assess the genuinity of the accusations and thereafter proceed in accordance with law.

With the aforesaid observations, the writ petition being WPA 25326 of 2024 is disposed of.

There shall be no order as to costs.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)