

05 01.02.2024
NB Ct. 14

WPA 24634 of 2023
(via video conference)

Gouri Bairagya
Vs.
The State of West Bengal & Ors.

Mr. P. K. Bhattacharyay.
..for the petitioner.

Ms. Jhuma Chakraborty Sr. Govt. Adv.,
Mr. Parikshit Goswami.
...for the State.

No one appears on behalf of the private respondents despite service, as would be evident from the affidavit of service filed earlier.

Supplementary affidavit filed on behalf of the petitioner is taken on record.

A copy of the same has been handed over to the learned counsel for the State.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the owner of the property in question. She stays there with her son. The husband and wife have been staying separately for quite some time. The two private respondents are the husband of the petitioner and a property developer of the locality respectively. They have been disturbing the possession and enjoyment of such property by the petitioner. On 05.08.2023, the private respondents attacked the house of the petitioner and drove the petitioner and her son out of the said residence. They want to grab the property and

promote and develop it illegally. Police help was sought, but was not rendered.

Learned counsel appearing on behalf of the State relies on the report filed earlier and submits that on the complaint of the petitioner a proceeding has been initiated under Section 107 of the Code of Criminal Procedure. The petitioner was also requested to approach the civil Court for a proper order under the provisions of the Protection of Women from Domestic Violence Act.

It appears that the petitioner is the recorded owner of the property in question. If she is forcibly ousted from there by a third party even if it is by her husband, this does not give rise to a civil dispute.

This is indeed a special circumstance where a lady owning a property has been driven out along with her son from a property that she owns by her own husband who had not been staying together for quite some time. This is an out and out mischievous act, which borders on criminality.

In such circumstance, it will not be proper to relegate the petitioner to the civil court for obtaining appropriate relief.

The petitioner shall be at liberty to intimate the Officer-in-Charge of Purba Bardhaman Police Station about the intended date and time of her return to her house with a 24 hours' notice. The Officer shall then take necessary steps to arrange for police protection so that she can be escorted back to her residence.

The entry to her residence shall be videographed.

Even otherwise, the police authorities shall keep a sharp vigil at the locale and ensure that no breach of peace takes place. Surveillance shall include frequent visits by police patrol.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)