

W.P.A. 27103 of 2023

Mamin Mallick @ Mamin Islam Mallick  
Vs.  
The State of West Bengal & Ors.

Mr. Wasim Akram ... for the petitioner  
Mr. Jayanta Samanta  
Mr. Partha Sarathi Sen Sharma  
Mr. Dip Jyoti Chakraborty ... for the State  
Mr. A. Bhattacharyya  
Mr. Sukhen Bar  
Ms. Nilam Shaw ... for the O.P. Nos. 5 & 6

Report filed regarding intimation to be given to the private respondents is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the owner of the land in question. He has four sons. In one of the plots there is a dilapidated house and in the other there is house where the petitioner was staying with his wife. The private respondents are his youngest son and daughter-in-law. They had been pressurizing the petitioner to give them a part of the property. As the petitioner did not yield, they started torturing him and finally they were able to oust them from their own residence. Earlier, the petitioner was constrained to initiate a proceeding under the Welfare and Maintenance of Senior Citizens Act and a direction was passed granting maintenance. Only after this, the daughter-in-law lodged an F.I.R., inter alia, under Section 498A of Penal Code.

Learned counsel appearing on behalf of the private respondents denies the allegations and submits as follows. There was a mutual arrangement between the sons and the

father that the sons would be constructing their separate units on the said land. It is denied that the private respondents had thrown out the petitioner from the residential house. In fact, the petitioner and his wife are staying at the old house on the other plot.

Learned counsel appearing on behalf of the State relies the report and submits as follows. The petitioner's grievance is that the private respondents have been created pressure to transfer his residential building in their names. There are allegations of threats and torture. The petitioner also initiated proceeding under the Welfare and Maintenance of Senior Citizens Act and obtained an order. There is an F.I.R. started by the daughter in law, inter alia, under Section 498A of the Penal Code. On the complaints of both sides, proceedings have been initiated under Section 107 of the Code. Police are keeping close watch under the developments in the locality. In fact, inquiry reveals that the private respondents are working in Andhra Pradesh and not residing at the property regularly.

It appears that the petitioner is the owner of the property in question. There is a dispute about whether there was an informal settlement amongst the private parties to remain on certain portions of the property.

Be that as it may, at this advanced age the petitioner cannot be relegated to the Civil Court to obtain a relief to go back to his own residential house.

In view of the above, let the petitioner intimate the Officer-in-Charge of Khanakul P.S. about the intended date and time of return to his own residence with a prior 24 hour's notice. The

officer shall then arrange the adequate armed police personnel for escorting him back to his residence. If a padlock has been put, the same shall be broken open. The entry to the house shall be video graphed.

The police shall also keep a sharp vigil at the locale and ensure that no breach of peace takes place.

With these observations, the writ petition is **disposed of**.

As affidavits were not called for, the allegations made are deemed not to have been admitted.

Parties shall act on a server copy downloaded from the official website of this Court.

(Jay Sengupta, J.)