

15.05.2024
Court No.14
Item No.1341
Pk/AP

WPA 27776 of 2023

**Shantibala Das
Vs.
The State of West Bengal and Ors.**

Mr. Ziaul Hoque
Ms. Paulomo Ghosh

... for the petitioner.

Mr. Biswabrata Basu Malick
Mr. K.M. Hossain

... for the State.

Mr. Gautam Das

... for the Private Respondent No.4.

Affidavit of service filed on behalf of the petitioner is taken on record.

Report of the State is also taken on record.

Learned counsel for the petitioner submits as follows. The petitioner is a 68 years old lady, who owned the property in question at Mouza Uttar Gopal Nagar, Pathar Pratima Police Station, South 24-Parganas. She got this property from her husband. In July 2023 the petitioner executed two separate gift deeds in the name of her two daughters being the private respondents herein on the promise that the private respondents would take care of her. However, soon after the gift deed was registered, the private respondents tortured and ousted the petitioner from her own residence. She had to take shelter at her relative's place. She also filed a complaint before the police, but no action has yet been taken.

Learned counsel for the private respondent No.4 submits as follows. The allegations made in the writ petition are denied. The private respondents did not torture or oust the petitioner from her residence, which she had gifted to the private respondents. However, of her own volition, the petitioner decided to go and stay at her son's place. The private respondent No.4 does not have any objection if the aged lady returned to her earlier residence.

Learned counsel for the State relies on the report and submits as follows. The petitioner gifted away the property to private respondents. After a few months of the same, the private respondents started torturing her and finally drove her out from her residence. However, on the complaint of the petitioner, specific FIR being Pathar Pratima Police Station Case No. 442 of 2023 dated 13th December, 2023 has been registered under Sections 341, 342, 323, 325, 379, 506 and 34 of the IPC and Sections 24 of the Maintenance and welfare of Parents and Senior Citizen Act, 2007.

The police report supports the contention of the petitioner that after she had gifted her property to the two daughters being the private respondents herein, the latter tortured her and drove her out from the said residence.

The petitioner is entitled to relief of maintenance and residence under the Act of 2007 and other relevant laws. She shall also be at liberty to file civil suit for cancellation of the deed of gift.

However, at this advanced age, she shall not be relegated to a Civil Court or like for getting a simple relief of returning to her residence.

Fortunately it has been submitted on behalf of the respondent No.4, who though denied all the allegations, that his client would not object if the petitioner returns home.

In view of the above, let the petitioner intimate the intended date and time of return to the Officer-in-Charge, Pathar Pratima Police Station with 24 hours' prior notice. The Officer-in-Charge shall arrange for necessary armed police personnel to escort her to her residence. The entry to the residence shall be videographed.

Let the police keep sharp vigil at the locale and ensure that no breach of peace takes place. Surveillance shall include frequent visit by police patrol.

With the aforesaid directions and 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 the server copy of this order duly downloaded from the official website of this Court.

(Jay Sengupta, J.)