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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/154/2024
M/S. SADASUKH KABRA AND CO
VS
THE STATE OF WEST BENGAL AND ORS .
.....

BEFORE :
THE HON'BLE JUSTICE JAY SENGUPTA
Date : 8th April, 2024.

Appearance :
Ms. A. Manot, Adv., for petitioner.
Mr. W. Ahmed, Adv.; Mr. M. Sehabuddin, Adv., for State.
Mr. A. Mookherjee, Adv.; Mr. P.C. Ghose, Adv., for UCO Bank.

The Court : - Report filed on behalf of the State is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows.

The petitioner is a proprietorship concern, the proprietor being one Ms. Saroj Kabra. The petitioner has been running the business from the premises in question since long. After the demise of her husband, the said Ms. Saroj Kabra became the proprietress of the concern. The executant is an employee of the concern. The private respondent, through its men and agents, is preventing the petitioner and its employees from accessing the said premises which was rented out to the proprietorship concern. In fact, the private respondent had filed a

civil suit for eviction of the petitioner, but the same was dismissed for default. By use of physical force, the petitioner cannot be ousted from the said premises.

Learned counsel appearing on behalf of the private respondent submits as follows. The allegations made in the writ petition are denied. No physical force has been used either to deter the petitioner or its employees from accessing the said premises. However, when the executant namely, Arobinda Kundu, wanted to enter the said premises, he was stopped by the security guard because the guard was not sure about his identity and connection with the proprietorship concern. An application has already been filed for restoration of the eviction suit. It is apprehended that the petitioner is abusing its position as a tenant by partitioning the said premises in order to induct sub-tenants.

The allegations levelled by the private respondent are strongly objected to by the learned counsel for the petitioner.

Learned counsel appearing for the State relies on the report and submits as follows. The petitioner is a tenant at the said premises. The concern of the private respondent is possibly that some unauthorised construction might be going on in the said premises. An ejectment suit was filed by the private respondent, which was dismissed for default. The police are keeping a close watch on the developments in the locality.

It appears to be an admitted position that the petitioner's concern is a tenant in the premises in question. If any of the parties wants to establish any

further right in respect of the said property, the same has to be done before a civil court and not by use of brute force.

Fortunately, the private respondent has averred that it has not stopped the petitioner or its men from accessing the tenanted premises.

Therefore, no further order need be passed in this matter.

However, the police shall keep a sharp vigil at the locale, ensure that no breach takes place and see to it that no order of a civil court is violated.

In the event the petitioner or any of its employees are prevented access to the said premises, the petitioner shall be at liberty to immediately contact the Officer-in-Charge of the Hare Street Police Station who shall then act in accordance with law.

With the aforesaid directions, the writ petition stands disposed of.

Since no affidavits have been called for, the allegations made in the writ petition are deemed to have been denied by the petitioner.

(JAY SENGUPTA, J.)

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