

OD – 4

ORDER SHEET

**WPO No.540 of 2024**

IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
ORIGINAL SIDE

DAYAL COMMERCIAL COMPANY PVT. LTD. & ANR.  
VS.  
THE STATE OF WEST BENGAL & ORS.

BEFORE :  
The Hon'ble JUSTICE AMRITA SINHA  
Date : 12<sup>th</sup> June, 2024.

Appearance:

*Mr. Bibek Jyoti. Basu, Adv.*  
*Mr. Sandeep Prasad Shaw, Adv.*  
*Mr. Uttam Kumar De, Adv.*  
*Mr. Raju Baroi, Adv.*  
*...for the petitioners.*

*Mr. Naba Kumar Das, Adv.*  
*Ms. Rajyashree Mukherjee, Adv.*  
*...for the State.*

*Mr. Surajit Nath Mitra, Sr. Adv.*  
*Mr. Meghajit Mukherjee, Adv.*  
*Mr. Prantik Gorai, Adv.*  
*Mr. Brinda Sen Gupta, Adv.*  
*...for the respondent Nos. 10 & 11.*

*Mr. Ayan Banerjee, Adv.*  
*Ms. Debasree Dhamali, Adv.*  
*...for Bally Municipality.*

The Court :- Primary allegation of the petitioners is that the private respondent nos. 10 & 11 with active help and connivance of the police are

trying to dispossess them from their leasehold godown at 13, Ramdhan Ghosh Lane, Belur, Howrah-711202 within the limit of Bally Municipality.

Complaints were lodged before the Officer-in-Charge, Bally Police Station and thereafter before the Officer-in-Charge, Belur Police Station but apart from registering police case, no steps have been taken to prevent the illegal act of the private respondents.

The petitioners have annexed copies of the indenture of lease executed in the year 1961, tax audit report, electricity bills, property tax bills, rent control challans in respect of the submission that the petitioners are in possession of the godown in question. It has been submitted that regular threats are given out to the petitioners to vacate the property failing which dire consequences would follow.

It has been submitted that one of the rooms inside the subject property has been demolished by the private respondents and goods worth crore of rupees have been removed from the godown of the petitioners.

Learned senior counsel representing the respondent nos. 10 & 11 denies the allegation of the petitioners. It has been submitted that the said respondent purchased the property upon payment of valuable consideration. Possession of the property was handed over to the said respondents from the erstwhile owners.

According to the private respondents, no threat whatsoever has been given out to the petitioners.

Learned advocate representing the Police relies upon the report forwarded by the Inspector-in-Charge, Belur Police Station signed on 6<sup>th</sup> June, 2024, wherefrom it appears that in response to the complaint lodged by one of the petitioners, Belur Police Station case No. 81/2024 dated 15.05.2024 under Sections 447/352/506/34 of the Indian Penal Code has been registered and investigation is under progress. It has been denied that any police in plain cloth went to the spot.

Upon hearing the parties, it appears that the petitioners are concerned with regard to their possession of the subject property. The petitioners do not claim ownership of the property. They claim to be in possession thereof. According to the private respondents who purchased the property in the month of May, 2024, the possession was handed over to them by the erstwhile owners.

The writ Court is not in a position to decide who was or who is in possession of the subject property. The writ Court is concerned with regard to maintaining peace in the locality and to ensure that no untoward incident takes place. The police is not the competent authority either to take over or hand over possession of the property to any party.

As regards protection of civil rights, it is open for the parties to approach the competent Civil Court for relief.

The police is directed to ensure that there is no breach of peace in the locale and no illegal or untoward incident crops up out of the civil disputes in between the parties. The police is directed to keep very strict vigil over the property to ensure that no illegal activity takes place and no damage is caused to the subject property.

Writ petition stands disposed of.

As the cause of action of filing the instant writ petition and the parties to the writ petition lies outside the Original Side jurisdiction of this Court, the writ petition be registered and re-numbered in the Appellate Side. However, the writ petition in the Original Side should be recorded as disposed of.

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

(AMRITA SINHA, J.)

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