

OD-1

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/1854/2023
IN THE MATTER OF:
PAPIYA BHATTACHARYA
VS.
THE STATE OF WEST BENGAL AND ORS.

BEFORE:

The Hon'ble JUSTICE JAY SENGUPTA

Date : 16th January, 2024

Appearance:
Mr. Tapas Kumar Dey, Adv.
Mr. Ashis Kumar Dutta, Adv.
For petitioner
Mr. Debjit Mukherjee, Adv.
Mrs. Kalpita Paul, Adv.
For State
Mr. Dipta Dipak Banerjee, Adv.
Mr. Oishik Chatterjee,
Mr. Joydeep Das, Adv.
For private respondents

The Court : Affidavit of service filed on behalf of the petitioner is taken on record. Report filed on behalf of the State is also taken on record.

Learned advocate for the petitioner submits as follows. The petitioner is the owner of the property in question. The father of the private respondents was a tenant under the owner of the said premises in respect of the ground floor of the property. There was a common passage, which led to the water pump room. The private respondents had raised a dispute regarding access to the pump room and put a lock on the said room. They even stopped the owner from accessing the said passage and room. This prompted filing of a civil suit. By an order dated 25th

April, 2017 passed by the learned Judge Xth Bench, City Civil Court, Calcutta in TS No. 1947 of 1997, the suit was decreed on contest against the defendant. The defendant was directed to hand over a duplicate key of the door of the side space and rear space and also reservoir and pump set of the ground floor to the plaintiff within 15 days. In default, the plaintiff was given liberty to put a new lock on the door of the side space, rear space and also reservoir and pump set and provide a duplicate key to the defendant immediately after putting said lock. At the same time, the plaintiff was directed to lock the gate properly except at the time of repairing so that the privacy of the defendant should not be affected. The defendant was restrained permanently from obstructing the plaintiff from access/repair/maintenance of water reservoir and pump set of the said premises through the door at the extreme east of the southern side of the passage. The private respondents are now violating the order passed by the Civil Court. They did not only stop the petitioner from accessing the said passage and the room, but also assaulted the petitioner. This was brought to the notice of the local police authorities, but no action was taken.

Learned counsel appearing on behalf of the private respondents submits as follows. The allegations made in the writ petition are denied. The private respondents have never violated the order of the Civil Court or obstructed the petitioner from accessing the passage of the pump room. The only concern of the petitioner is that the order of the Civil Court should be followed so far as privacy of the private respondents is concerned.

Learned counsel appearing on behalf of the State relies on the report and submits that the police have already acted on the complaints made by both the parties. Specific criminal cases were started at the behest of the warring sides.

It appears that civil dispute existed between the private parties. By a decree of a civil court, the owner was granted access to the passage in the ground floor and the pump set room and reservoir room.

Fortunately, the private respondents have submitted that they have not and are still not obstructing the petitioner from accessing the said passage and pump room.

It also appears that the police have taken action in respect of complaint made by either of the parties.

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

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

With the above observations, this 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.)

sb/