

15.05.2025
Court No. 35
Item No.16
Rakib

W.P.A. 11067 of 2023

Pravash Hazra.
VS
The State of West Bengal & Ors.

Mr. Ankit Agarwal,
Mr. Nilay Sengupta,
Mr. Sujit Banerjee.

... for Petitioner.

Mr. Jayanta Samanta, Jr. Govt. Adv.,
Mr. Supriyo Majumder.

...for State.

Petitioner prays for investigation as well as recovery of possession by way of invoking the jurisdiction of this Court under Article 226 of the Constitution of India. Petitioner claims that he was thrown out of his residence at the behest of the private respondents nos. 5 and 6, and inspite of informing the police authorities no steps have been taken.

State has submitted a report. Report reflects that the police authorities did put in efforts and services were effected upon the respondent no.6.

The basic foundation of the case of the petitioner is that inspite of refund of the amount made to the private respondents after accepting the amount they forcefully entered and occupied a different flat in the same building.

Having considered the nature of the dispute complained of and the fact that the information which was furnished to the police station was on 17.12.2022, I

am of the view, if the police authorities till date did not take any steps, petitioner would be at liberty to approach the jurisdictional Magistrate by invoking the relevant provisions of law. Learned Magistrate would assess whether any cognizable offence is made out and thereafter passes necessary directions as he deems fit and proper.

In respect of the issue of possession is concerned petitioner has an alternative efficacious remedy. Learned advocate for the petitioner insist by relying upon two decisions of the Hon'ble Delhi High Court in Vinay Khanna & Anr. -Vs. - Union of India & Ors. reported in 1998 SCC OnLine Del 846 and Anju Devi -Vs. - Commissioner of Police & Ors. reported in 1994 SCC OnLine Del 327.

Having considered the factual circumstances of the said case and also the period of time which has passed in the meantime in the present case, which is almost two and half years, I am of the view that at this stage so far as the civil rights are concerned the same cannot be entertained. Petitioner would be at liberty to approach the appropriate civil forum for recovery of possession.

With the aforesaid observations WPA 11067 of 2023 is disposed of.

Report so submitted by the State be kept with the record.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Tirthankar Ghosh, J.)