

Sl.No. 118 11.03.2025
Court No. 35
G.S.Das

WPA 11956 of 2024

Bijay Kumar Sharma
-Vs-
The State of West Bengal & Ors.

Mr. Kishore Mukherjee
Mr. Md. Shakir
... for the Petitioner(s)
Mr. K. J. Yusuf, Id. AGP
Mr. Mrinal Kanti Ghosh
... for the State-respondent(s)
Mr. D. B. Datt
Mr. Debasish Das
... for the respondent no. 5

The petitioner is aggrieved by the fact that in spite of the civil court having passed an order of temporary injunction on or about 18.03.2021 in T.S. 110 of 2021 thereby restraining the defendants (the private respondents herein) from ousting the plaintiff/petitioner from the suit property without due process of law and also restraining the respondents from disturbing the peaceful possession over the suit property, the learned advocate for the petitioner submits that the petitioner has been thrown out from his property.

Subsequently, there has been demolition of the building followed by a new construction being erected at the said site.

Learned advocate for the State submits a report which reflects that in September, 2011 on the basis of a complaint of the petitioner, a case was registered being Baranagar P.S. Case No. 545 dated 14.12.2011 wherein after completion of investigation charge sheet was submitted. Subsequently, the present complaint was received on or about 4th April, 2024.

It is also reflected from the report that the building which was situated at 95, Deshbandhu Road (W), Kolkata-35, where the petitioner was a tenant, was inspected by an engineer of KMC and it was observed that the building was to be demolished vide letter dated 14.06.2023.

It has further been contended that the petitioner left the said property with

all his bag and baggage. There were other tenants and shopkeepers who also left the possession of the said building at the verge of demolition for the purposes of renovation work by the concerned authority.

Learned advocate for the private respondents supports the contentions of the State.

Prima facie, the contentions of the State is that the petitioner has *suo motu* left the building and/or property without submitting any document and/or surrendering of such tenancy.

Thus, the only remedy which the petitioner can avail is for restoration of the possession in view of the pending of the civil suit.

The learned civil court will also take into account that in case restoration is not possible, then, in that case, the issue relating to compensation for removal

of the petitioner in an unauthorized manner, if it is proved before the civil court, appropriate compensation should be awarded.

With the aforesaid observations, WPA 11956 of 2024 is disposed of.

Pending application, if any, is also disposed of.

Report so submitted be kept with the record.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court, Calcutta.

(Tirthankar Ghosh, J.)

