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jdt. 13.11.2025
jb.

WPA 24934 of 2025

(Swati Chakraborty Bhattacharya vs. State of West Bengal & Ors.)

Ms. Pampa Dey Dhabal
Mr. Biswarup Chatterjee
.... For the Petitioner
Mr. Sankar Halder
Ms. Sujata Mukherjee
.... For the State
Mr. Souma Subhra Ray
Mrs. Anusree Mondal
Ms. Neelam KUmari
Ms. Archana Bhaghel
.... For the Respondent no. 8

Affidavit of service filed by the petitioner and report submitted by the State are taken on record.

The respondent no. 7 is not represented despite service.

Learned counsel for the petitioner submits that pursuant to an agreement for sale entered into by and between the petitioner and the father of the 7th respondent and upon payment of part consideration amount, the petitioner was put in possession of the flat in question by the said vendor sometime in 2013. However, the deed of sale could not be executed and the vendor expired in 2017. On 19th March, 2018, the 2nd wife of the vendor and her daughter wrote to the petitioner requesting her to pay the balance consideration amount so that the deed of sale could be registered. There was complete silence from the side of the vendor's family after that. On 17th September, 2025 when the petitioner was not in her house, the 7th respondent put a padlock to the flat thereby restricting the petitioner and her

son from entering thereto. The belongings of the petitioner including the documents of her son are lying in the said flat and the petitioner has no access thereto. The petitioner lodged a complaint in this regard before the police authority. However, the petitioner has not been able to enter the flat till date.

Learned counsel for the respondent no. 8 submits that he is not a family member of the vendor (since deceased) and has no nexus whatsoever with the alleged incident. Learned counsel submits that the petitioner took a loan of Rs. 60 lakhs from the 8th respondent and has failed to return the same for which he has been entangled in the present matter.

Learned counsel for the State submits that complaint was lodged against the petitioner by the 7th respondent which was registered and charge sheet has been submitted upon completion of investigation.

Surprisingly, no step has been taken by the police in respect of the complaint lodged by the petitioner on 17th September, 2025 and subsequent complaint lodged by her on 19th September, 2025.

It is not in dispute that the petitioner was all along in possession of the flat in question by virtue of the agreement for sale executed by and between the vendor and herself. It is a fact that an agreement for sale does not confer title upon the petitioner. The deed of sale has not been executed. However, it is trite law that even a trespasser in respect of a premises cannot be evicted therefrom without due process of law.

Since the petitioner has been occupying the flat since 2013 and no eviction suit has been filed against her by the private respondent no. 7, the possession of the petitioner in respect of the flat needs to be restored until she is evicted therefrom by due process of law.

In view of the above, the Officer-in-Charge, Nagerbazar police station, being respondent no. 6 herein, is directed to restore the possession of the petitioner in the flat in question by 15th November, 2025 positively. The police authority shall ensure adequate protection to the petitioner so that she is able to stay in the said flat peacefully until she is evicted therefrom in due course of law.

With the aforesaid observations and directions, the writ petition is disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

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

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)