05th Oct.,2026

Itemno.ML 31
Court No. 758

Rohit,
A.R.(Ct.)

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

Case No. **WPA28765 of 2024**

In the matter of :

Soma Dutta.

....Petitioner

VS.

The State of West Bengal & Ors.

....Respondents

For the Petitioner:

Ms. Rima Halder

Ms. Proma Kanjilal

....Advocates

For the State :

Mr. Partha Chakraborty

Ms. Sneha Chatterjee

...Advocates

1. The petitioner claims to be in possession of a property in the capacity of a co-owner situated at 53, Jainuddy Mistry Lane, Kolkata -27.

2. Learned Advocate for the petitioner submits that on 21st January, 2021, the private respondent no. 6 being the husband of the petitioner, illegally executed a lease agreement in respect of an area measuring about 250 sq. ft. at the said premises. The petitioner contends that the said lease is void *ab initio*.

3. The petitioner further contends that the respondent no. 6 being the husband and co-owner of the

property resided at the said premises since his birth but in the year 2021 he left the premises without informing the petitioner and his son. Allegedly, the said respondent no. 6 left the premises to avoid creditors from whom he took huge amount of loan. The petitioner contends that the Hindu undivided family property cannot be leased without informing the other co-owners.

4. The petitioner contends that subsequently the private respondent nos. 4 and 5 have subjected her to abuse and harassment.The petitioner on 25th February, 2022 and 16th November, 2022 sent a notice of eviction to the respondent nos. 4 and 5. It is alleged that on 30.12.2022 the respondent nos. 4 and 5 attacked the petitioner mercilessly with fist and blows. Consequently, on 31st December, 2022 a subsequent complaint was lodged with the police station. However, the police station did not take cognizance of the matter. Subsequent complaints were made on 25th January, 2023, on 25th March, 2023, on 6th October, 2023 and again on 27th March, 2024 to authorities. The petitioner has further submitted that an application under Section 144(2) Cr.P.C has also been filed.

5. On these allegations, the petitioner has inter alia prayed for a direction to the police authorities to prevent the alleged unlawful activities of

respondent nos. 4 and 5 and to ensure that they vacate the premises.

6. A report was called for from the concerned police station. It appears that a report dated 19.12.2024 was filed. Let the same be kept with the record.

7. From the report it appears that a lease agreement was executed by the respondent no. 6 in favour of the respondent no. 4 for a period of eleven years. The report further reveals that on 31.12.2022 the petitioner lodged a complaint with the local police station alleging the incident dated 30th December, 2022. The said complaint was diarised. Accordingly, Chetla P.S. Case No. 03 dated 25.01.2023 under Section 354B/324/341/509/506/114 of the IPC was registered for investigation wherein the respondent no. 4 was arrested, while the respondent no. 5 surrendered before the learned CJM, Alipore and both were enlarged on bail. Subsequently charge-sheet no. 01/23 dated 10.02.2023 has already been filed in the Court.

8. Subsequently another case being Chetla P.S. Case No. 51 dated 09.10.2023 was registered under Section 341/323/35/509/34 of the IPC and subsequently Section 376 IPC was also added to the said case. The respondent no. 4 was arrested, while

the respondent no. 5 surrendered before the Court. It is submitted that charge-sheet no. 01/24 dated 17.01.2024 has already been submitted in the Court.

9. Further upon treating a letter of complaint of the petitioner dated 27th March, 2024, Chetla P.S. Case no. 15 dated 28.03.2024 under Section 341/324/354/427/379/506/34 IPC was registered for investigation where the I.O. arrested respondent no. 4 recovered a stolen mobile phone form the possession of the said respondent. The mobile phone was handed over to the petitioner on 05th April, 2024. Respondent no. 5 surrendered before the Court and is currently on court bail. Investigation of the said case is in progress.

10. Upon consideration of the materials on record, it is evident that there exists a dispute between the petitioner and the respondent nos. 4 and 5. It also appears from records that cases have been registered against the respondent nos. 4 and 5 from time to time.

11. Although this Court finds that there is substance in the allegation of the petitioner regarding repeated incidents happening at the premises of the petitioner, the prayers for eviction of the respondent nos. 4 and 5 from the said premises cannot be allowed in view of lack of

jurisdiction of this Court. The petitioner shall be at liberty to seek appropriate relief, including eviction and interim protection, before the competent civil court in accordance with law.

12. The existence of a civil dispute does not, however, absolve the police authorities of their duty to prevent offences and protect life and personal safety. Having regard to the repeated complaints and the criminal cases recorded in the police report, the Officer-in-Charge, Chetla Police Station, shall maintain appropriate vigil in and around the premises, assess any subsisting threat to the petitioner's safety and take preventive measures in accordance with law. Any fresh complaint disclosing an offence shall be dealt with promptly in accordance with law.

13. The investigation into the Chetla P.S. Case No. 15 dated 28.03.2024 be completed with utmost expedition. The local police station shall also ensure that the petitioner is not harassed by the private respondents.

14. The petitioner shall be at liberty to approach the jurisdictional Magistrate for appropriate relief relating to any subsisting grievance relating to the investigation. Nothing in this order shall be construed as a finding on the truth of the allegations.

15. **W.P.A 28765 of 2024** is disposed of on the above observations without any order as to costs.

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

(Anuj Singh, J.)