

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction

Before:

The Hon'ble Mr. Justice Jay Sengupta

WPA 19269 of 2022

Swarnalata Mondal

Vs.

The State of West Bengal & Ors.

For the Petitioner	:	Mr. Sumonta Ganguly, Mr. Pranab Palit.
For the State	:	Mr. Wasim Ahmed, Md. Shehabuddin.
For the Private Respondents.	:	Mr. Sounak Bhattacharya, Mr. Sounak Mandal, Mr. A. Halder..
Heard on	:	22.11.2023
Judgement on	:	22.11.2023

Jay Sengupta, J. :

1. Affidavit of service filed on behalf of the petitioner is taken on record.
2. Despite service, no one appears on behalf of the State although the private respondent is represented.

3. Let Mr. Wasim Ahmed and Md. Shahbuddin, learned counsels who ordinarily appear on behalf of the State represent the State in this case. Their engagement may be regularised by the competent authority in due course.
4. A copy of the writ petition is handed over to the learned counsels for the State in Court.
5. Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is a 78 years old widow. After the demise of her husband, the property devolved upon her and her two children, son and daughter. However, the private respondents being the son and the daughter in law had been disturbing the possession and enjoyment of the petitioner's property. They started to torture the petitioner demanding that her entire share should be given to the son. They drove her out of the property. Several representations were made before the police authorities, but were not acted upon. In fact, although a direction was also passed under Section 156(3) of the Code, no FIR was registered.
6. Learned counsel appearing on behalf of the private respondent submits as follows. The allegations made in the writ petition are denied. At best the petitioner is claiming a right of passage through a portion of the property belonging to the private respondents. This is purely a civil dispute.

7. Learned counsel appearing on behalf of the State submits as follows. It appears that several disputes are pending between the private respondents. However, if the petitioner is the owner of a portion of the undivided property, she would have the right to stay there. The police are going to keep a strict vigil.
8. It appears that the 78 years old petitioner is a co-sharer of the undivided property in question. The private respondents have no authority to oust the petitioner from such property.
9. At this advanced age, the petitioner should not be relegated to the Civil Court to obtain relief to stay at her own residence.
10. In view of the above, let the petitioner intimate the exact date and time of her intended return to her residence to the Inspector-in-Charge of the Sonarpur Police Station, South 24-Parganas with a 24 hours' notice. Thereafter, the police authorities shall arrange for necessary police escort so that the petitioner can return to her own house.
11. The return of the petitioner back to her home shall be videographed.
12. Even otherwise, the respondent police authorities shall keep a sharp vigil at the locale and ensure that no breach of peace takes place.

13. In the event any untoward incident occurs or is apprehended by the petitioner, she shall be at liberty to call up the Inspector-in-Charge of the local police station and inform him about the same who shall then act in accordance with law.

14. In the event, a direction had been passed under Section 156(3) of the Code by the learned Magistrate on the complaint of the petitioner and the same has not been acted upon, the concerned police authorities shall take immediate steps to cure the wrong.

15. With these observations, the writ petition is disposed of.

16. Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)