

27.12.2023
Item No.4
Ct. No.7
Vacation Bench
CHC/S. De
(disposed of)

W.P.A.26121 of 2023

Sk. Habibullah
Vs.
The State of West Bengal & ors.

Mr. Rameshwar Sinha,
Mr. Nikhil Kr. Gupta
...for the petitioner

Mr. Biswabrata Basu Mallick, Ld. A.G.P.
Mr. Biman Halder
...for the State

Affidavit-of-service filed on behalf of the petitioner is taken on record.

It appears that some of the private respondents could be served with notice.

Report filed on behalf of the State is also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner's mother is about 87 years old. The private respondents are the other relatives of the petitioner. After the demise of the petitioner's father who was the owner of the property in question, the private respondents are trying to grab the entire property. They have been disturbing, harassing and even assaulting the petitioner and his mother. On one occasion, the petitioner and his 87 years old mother were brutally

assaulted. They had to be treated in a hospital. Even earlier, similar assaults were done to the wife of the petitioner. The petitioner and his mother have now been forced to live in a garage.

Learned counsel appearing on behalf of the State relies on the report and submits that the police have acted on the complaint of the petitioner by initiating a proceeding under Section 107 of the Code of Criminal Procedure. They are keeping a close watch on the developments in the locality. Otherwise, the matter is civil in nature.

It appears that disputes exists between the private parties.

If any of the parties wants to establish any further right in respect of the property they shall have to do the same before the Civil Court and clearly not by taking law into their own hands.

But, the mother of the petitioner is an octogenarian and appears to be a prime shareholder of the property of her husband (since deceased). She cannot be forced out of such property or brutalized in any manner.

At this advanced age, the petitioner's mother cannot even be asked to go before the Civil Court and pray for appropriate relief in this regard. The private respondents have to allow her to stay in a room at the said property and use all common amenities. The

police authorities shall be at liberty to ensure the same on a complaint of the petitioner or his mother.

Even otherwise, the police authorities shall keep a sharp vigil at the locale, ensure that no breach of peace takes place and also see that no order of civil court is violated. Surveillance shall include frequent visits by police patrol.

As affidavits were not called for, the allegations made are deemed not to have been admitted.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order, if supplied for, be given to the parties on urgent basis after completion of all necessary formalities.

(Jay Sengupta, J.)