

28.05.2019
Ct. No. 37
Item No. 22
Sb.

W.P. No.9638 (W) of 2019

Smt. Areka Sarkar and Another
—v—
The State of West Bengal and Others.

Mr. Indrajeet Dey
Mr. Soumitra Chakraborty...For the Petitioner

Mr. Jahar Datta
Mr. Bipin Ghosh ...For the State.

The allegations contained in paragraph 2 of the writ petition inter alia at pages 5 and 6 make out the prima facie case of the petitioners being threatened by the close family members of the petitioner no.1 of a heinous offence being committed against her only in order to get possession of a property in which she is a co-owner. She has been threatened with her life and limb, and the allegations include a threat of rape by her own brother.

There is, of course, a backdrop to this case which has been invoked perhaps to shock this Court with the progress that Kolkata has made in the sphere of personal relationships which partake of the nature of LGBTQA+.

However, adjudication of this writ petition does not require any consideration of such profound doctrine which appears to have been invoked by the petitioners and their learned advocates after considering High Court judgments and the possibility of publicity so that if their claim on the basis of violation of their fundamental rights under Article 21 of the Constitution simpliciter fails, they would still have another arrow left in their quiver.

Till disposal of the writ petition there shall be an interim order by directing the police authorities particularly the respondents no. 8 as also the respondents 4, 5 and 7 to give protection to the life and property of the petitioners and particularly ensure that no pressure shall be brought to bear upon them by any person to part with the ownership or possession of the petitioner no.1 of the concerned property including by pressure against the petitioner no.2.

Though I have granted leave under Rule 26 of Appendix IV to the Appellate Side Rules, the writ petition was moved on service on the office of the learned Government Pleader. Further service of a copy of the writ petition and this order shall be effected on each of the respondents by name before the matter next comes up for hearing. The matter shall appear in the list before the regular bench two weeks after reopening.

The State of West Bengal shall file a report in the form of affidavit to the allegations contained in the writ petition that what steps they have taken to protect the petitioners. While I do not intend to lay down any boundary for the police to report or the State of West Bengal to file the report, it is expected that they shall come on tangible realities rather than fanciful imagination and the private life of the writ petitioners. If necessary, police picket also be posted at the residence of the petitioners.

Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon completion of requisite formalities.

(Protik Prakash Banerjee, J.)