IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Before:

The Hon'ble Justice Anuj Singh

W.P.A. 3566 of 2024

Tapasi Bag

Vs.

The State of West Bengal & Ors.

For the Petitioner : Mr. Ujjal Ray

..... Advocate.

For the State : Ms. Sudipa Banerjee
Mr. Koushik Roy

..... Advocate

For the Private respondent no. 5. : Md. Karim Waris
Md. Rahim Waris
Mr. Sk. Saiful Hossain
Ms. Papiya Bhowmick

Heard on :25.09.2026

Judgement on :09.10.2026

Anuj Singh, J:.

1. The petitioner is a senior citizen, a retired school teacher and the widow of Late Naba Kumar Bag. The petitioner has invoked the writ

jurisdiction of this Court alleging inaction by the police authorities on her representations alleging harassment and threats by respondent no. 5, Janki Kumari, who is the petitioner's daughter-in-law.

2. The petitioner has, inter alia, prayed for a writ in the nature of mandamus directing the police authorities to ensure that the petitioner is able to live in a residence, owned by her, situated at Village Bargachia, Post Office Nalikul, Police Station Haripal, District Hooghly (hereinafter referred to as the said premises), without being prevented by the respondent No. 5, who is the daughter-in-law of the petitioner.

3. The petitioner's case, in brief, is as follows. Her son, Subhadeep Bag, married respondent no. 5 on 10.03.2012. The couple thereafter resided at the said premises. Differences arose, and on or about 19.03.2023, the petitioner, her late husband and her son were allegedly compelled to leave the said premises and shift to a flat at Serampore.

4. On 07.12.2023 respondent no. 5 allegedly entered the Serampore flat, demanded the keys of a portion of the said premises and threatened the petitioner. The petitioner's husband, who was seriously ill, passed away on 18.01.2024. The petitioner attributes his deterioration, inter alia, to the mental stress caused by respondent no. 5.

5. After filing of the instant petition, this court had directed the State to file a status report with regard to the instant matter. Two reports have been filed on behalf of the Officer-in-Charge, Haripal Police Station, respondent no. 4. The first is dated 07.03.2025 and the second is dated 11.09.2026. They disclose the following:

    a. On the petitioner's written complaint Haripal P.S. Case No. 80/2024 dated 18.02.2024 was registered against respondent no. 5 under Sections 341/323/504/506/304 of the Indian Penal Code and Section 24 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

b. Upon investigation, the Investigating Officer submitted Final Report No. 399/2024 dated 31.07.2024 before the learned Additional Chief Judicial Magistrate, Chandannagar, declaring the case as a 'mistake of fact'.

c. The son of the petitioner has instituted Matrimonial Suit No. 95 of 2022 on 07.03.2022 before the learned Additional District Judge, Chandannagar, seeking divorce from respondent no. 5. Respondent no. 5 has instituted M.C. Case No. 134 of 2022 dated 21.05.2022 under the Protection of Women from Domestic Violence Act, 2005 before the learned Additional Chief Judicial Magistrate, Chandannagar. Both proceedings are said to be pending.

d. Respondent no. 5 presently resides at the said premises. The petitioner resides at Serampore flat with her son.

e. Furthermore, the report dated 11.09.2026 records that respondent no. 5 has requested the petitioner to reside at the said premises, but the petitioner declined such request.

4. Learned advocate for the petitioner has relied on decisions in **Ramapada Basak v. State of West Bengal, 2021 SCC OnLine Cal 2161** and **Debaki Nandan Maiti v. State of West Bengal, 2022 SCC OnLine Cal 740**. These decisions relate to senior citizens seeking to remove children or their spouses from their residence. The present writ petition does not pray for the eviction of respondent no. 5 from the said premises. The relief claimed is the petitioner's own peaceful entry into and residence at the said premises.

5. Learned advocate representing the respondent No. 5 has appeared and at the outset submitted that the present writ petition is misconceived and unnecessary. Ld Advocate submits that his client has never opposed or prevented the petitioner from residing at the said premises.

6. Upon a specific query being raised by the court to the said advocate representing the respondent No. 5, he fairly submits that his client

will not come in the way if the petitioner, being the mother-in-law, comes and resides in the said premises in a room.Learned advocate, however, submits that this order should not be seen as an order driving out the respondent No. 5 from her matrimonial house.Learned advocate further submits that the instant litigation is at the instance of the husband of the respondent No. 5 and has been filed to harass her.

7. This court has considered the submissions of both the learned advocates representing the petitioner and the private respondent No. 5. The court has also heard the learned advocate representing the State.

8. While the respondent No. 5 has a right to live in her matrimonial home, irrespective of the fact whether the same is owned by her or not, at the same time, the rights of senior citizens parents to live in their owned and acquired residential house cannot be defeated. Both such rights have to be harmoniously balanced.

9. This court does not intend to go into the veracity of the allegation as to whether the present litigation is at the instance of the husband who has a matrimonial dispute with respondent No. 5. However, it is quite evident that the present petition may have some bearing on the existing matrimonial discord between the petitioner's son and the respondent No. 5. Such disputes are pending adjudication before competent fora. It would not be appropriate for this Court, in exercise of writ jurisdiction, to pre-empt those questions.

10. The issue that requires consideration of this court is whether the High Court, in exercise of jurisdiction under Article 226 of the Constitution of India, can direct the petitioner to be put into possession of an immovable property. The Supreme Court in the matter of **S. Vanitha versus Deputy Commissioner, Bangalore Urban District, 2021 15 SCC 730, para 17,** has held that the

Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was enacted to ensure that the elderly citizens are not driven out of their own homes in the twilight of their lives. A daughter-in-law's right to residence cannot be used as an instrument to oppress, evict, or exclude her in-laws.

11. In **Satish Chandra Ahuja v. Sneha Ahuja, 2021 1 SCC 414, para 90,** the Supreme Court has held that while the daughter-in-law has the right to live in the family's own joint property, such right is not an indefeasible right to exclude the elderly owners of their own property. The court held that the courts are bound to balance the rival competing rights of the aged parents and the daughter-in-law.

12. Furthermore, this court in **Ramapada BasakVs. The State of West Bengal reported in 2021 SCC OnLine Cal 2161** has inter alia, held that under Article 226, the High Court has plenary powers and jurisdiction to direct the police authorities to ensure the peaceful entry and residence of the senior parents in their self-acquired property without adjudication of any title disputes.

13. Since the petitioner's complaint has been registered as a specific case, investigated, and has culminated in a final report, the grievance of police inaction does not survive in the form in which it is pleaded.

14. The petitioner is a widowed senior citizen. Respondent no. 5 has stated that she has no objection to the petitioner residing there. Respondent no. 5, for her part, is entitled to reside in her matrimonial home pending adjudication of the proceedings between the spouses. Both can and must coexist at the said premises with mutual dignity.

15. Accordingly, the writ petition is disposed of with the following directions:

a) The petitioner shall be at liberty to return to and reside at the said premises at Village Bargachia, Post Office Nalikul, Police Station Haripal, District Hooghly, whenever she so choosesby giving 3 days' prior notice to the respondent No. 5. Respondent no. 5 shall not

obstruct her entry to residence, or cause her any threat, harassment or disturbance.

b) In the event the petitioner is prevented from entering the said premises, the Officer-in-Charge, Haripal Police Station shall ensure the petitioner's peaceful entry into the said premises upon her intimation.

c) The petitioner shall be at liberty to pursue her remedies against Final Report No. 399/2024 before the learned Magistrate.

d) All observations made herein are for the limited purpose of disposing of this writ petition. They shall not prejudice either party in Matrimonial Suit No. 95 of 2022, M.C. Case No. 134 of 2022, or any proceeding arising out of Haripal P.S. Case No. 80/2024.

16. The order directing the police to assist the petitioner in entering the residential premises should not be construed to mean that the court has adjudicated upon the allegation of the petitioner that the respondent No. 5 had wrongfully prevented the petitioner from entering the said premises.

17. With the above directions, W.P.A. 3566 of 2024 is allowed. There shall be no order as to costs.

18. Urgent Photostat copy of this judgement, if applied for, shall be supplied to the parties, upon compliance of all requisite formalities.

(Anuj Singh, J.)