

04-08-2021
ct no. 13
Sl.6
pk/akd

WPA 4147 of 2021
Sushil Kumar Roy @ Susil Roy & Anr.
-Versus-
State of West Bengal & Ors.
(Via Video Conference)

Mr. Sabyasachi Mondal,
Mr. Sayan Mukherjee
...for the petitioners

Mr. Srijib Chakraborty
...for the State

The petitioners in this writ petition under Article 226 dated January 14, 2011 seek mandamus commanding the registering officer to accept the deficit stamp and return their documents in terms of provisions of Section 61(2) of the Registration Act, 1908.

The petitioners presented a document before A.D.S.R., Hathatganj, North 24-Parganas for registration under provisions of the Registration Act, 1908. The registering officer gave the petitioners a receipt dated 27.11.1990 under Section 52(1)(b) of the Registration Act, 1908. Since the document has not been returned even after production of the receipt, the petitioners brought this petition.

Mr. Mondal, counsel for the petitioners, submits that the registering officer could not refuse to return the document on the ground that it was prepared using fake stamps, especially

when the petitioners, not responsible in any manner and were ready and willing to pay the deficit stamp.

On instructions, Mr. Chakraborty, counsel for the State, submits that it is true that the document was not returned on the grounds that it was prepared using fake stamps. His further submission is that there is no provision under which the petitioners can be permitted to substitute genuine stamps for the fake ones.

After considering the order of the Inspector General of Registration, West Bengal dated July 16, 1991 (at p.24) and the specific case of the respondents stated in the written instructions given to Mr. Chakraborty that no criminal case is pending against them, I am of the view that it will be appropriate to direct the registering officer to return the document to the petitioners on their paying the deficit stamp. When admittedly the petitioners are not responsible for the forgery of the stamps, I am unable to see how the respondents can refuse to return the document.

For these reasons, I dispose of the petition ordering as follows:

Within a fortnight from the date, the petitioners pay the full stamp duty as on 27.11.1990. The registering officer shall take steps according to the provisions of Section 61(1) of the Registration Act, 1908 and complete registration

of the document. Within a fortnight thereafter the registering officer shall return the document on the presentation of the original receipt issued under Section 52(1)(b) writing on the original stamps that they are fake, and that deficit stamp has been paid by the petitioners in terms of the order of the Court.

Instructions of A.D.S.R., Hathatganj dated 01.03.2021 is taken on record.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)