

31.08.2021

Sl. No.19

Court No.8

BM.

WPA 13178 of 2021

MILAN DAS

Vs.

THE STATE OF WEST BENGAL & ORS.

(Via Video Conference)

Mr. Aqsa Khan

... for the petitioner

Mr. Tapan Kumar Mukherjee

Mr. Somnath Naskar

... for the respondent nos.1 & 2

The writ petitioner appears to be interested in the property in question claiming that the property is debuttar and it cannot be transferred but the Shebait have sold the property to developer promoter most illegally whereupon the Developer/Promoter have developed the property up to five storeyed building and is still under construction. It is pointed out that when the petitioner wanted to buy a flat in the said property; while searching, he learnt that the property belonged to the Estate of Sree Sree Iswar Uma Bseswar and Sree Sree Iswar Satimata Thakurani created by Will of late Anantalal Ghosh dated 12th May, 1980 and supplemental to Will dated 7th March, 2021 and that after the demise of Late Anantalal Ghosh their respective legal heirs and successors stepped into the shoes of their father and due to disputes and

differences amongst them an application under Indian Trust Act, 1882 being ATA No.02 of 2007 was filed in the High Court, Calcutta in respect of the above Estate for framing of scheme for proper administration of the above Estate and thereafter the parties in the suit arrived at consensus and agreed to settle their disputes and differences out of court in terms of settlement, filed in the said ATA No.02 of 2007 and application G.A No.1740 of 2007 which was filed on recording the terms of settlement whereby a Managing Committee consisting of all the four branches of families of Late Anantalal Ghosh was formed which was changeable in every two years to manage and to implement the terms of settlement in the interest of the said Estate.

Mr. Tapan Kumar Mukherjee, learned senior advocate for the State submits that it is not for the respondent-Registrar to adjudicate the title or nature of the property applied for registration of the deed. Respondent-Registrar is obliged under the law to register the deed presented before him.

This Court finds that the petitioner is highly interested to protect the Estate of the Deity. The matter in dispute can be adjudicated only by the suit Court whereas the petitioner herein has sought for direction upon the respondent no.2 to take steps for cancellation of said lease deed in respect of debuttar

property lying in the premises No.45, Phears Lane, Kolkata-73 in terms of representation being Annexure “P-2”.

I do not find reason to get the matter referred to Registrar to adjudicate upon the representation made by the petitioner, however, the petitioner is at liberty to seek declaration before the suit Court of competent jurisdiction.

For the aforesaid reasons, the writ application being WPA No.13178 of 2021 is dismissed, however, without any order as to costs.

All parties shall act in terms of copy of this order downloaded from the official website of this Court.

(Shivakant Prasad, J.)