

8 **09.12.2021**

gd/ssd

MAT 1293 OF 2021
IA NO: CAN/1/2021

SMT. BARNALI DUTTA
VS
SRI SHYAM SUNDAR DUTTA AND ORS.
(Through Video Conference)

Mr. Debasis Kar,
Mr. Husen Mustafi,
Mr. Subhajit Chowdhury
..for the Appellant

Mr. Jishnu Chowdhury,
Mr. Robiul Islam
..for the State

Mr. Shuvro Prakash Lahiri,
Mr. Abhishek Dutt
..for the Respondents

This appeal is at the instance of the daughter of the writ petitioner challenging the order of the learned Single Judge dated 30th of November, 2021 passed in WPA 14006 of 2021.

The respondent no.1 has filed the petition making an allegation of the physical and mental cruelty being inflicted by the appellant to him and to his wife and further apprehending the ouster from their house at the instance of the appellant.

The writ petitioner appears to have executed a gift deed in favour of the appellant in respect of property in

question in the year 2013.

Learned Single Judge has taken note of the provisions contained under Section 23 of the Maintenance & Welfare of Parents & Senior Citizens Act, 2007 which gives power to the Tribunal to declare certain transfers as void which are covered therein. The Tribunal in terms of Section 7 of the Act is already functioning. The application filed by the respondent no.1 under Section 23 of the Act before the Presiding Officer of the Tribunal has been placed on record. An apprehension has been expressed that in view of the observations which were made by the learned Single Judge in the order dated 30.11.2021, the Tribunal may not be able to independently decide.

A short prayer has been made by learned counsel for the appellant to direct the tribunal to decide the application independently, which is not objected by counsel for the respondent.

We are of the view that once the Tribunal is ceased of the matter, then that is required to decide it in accordance with law after permitting the parties to produce all the material in support of their case. Hence, we dispose of the petition by directing the Tribunal to decide the pending application expeditiously in accordance with law without being influenced by any observation made on merit in the order of the learned

Single Judge under challenge in this appeal.

The appeal is accordingly disposed of.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)

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