

7.1.2021
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WPA 11086 of 2020

Mrs. Saroj Agarwal
Vs.
The State of West Bengal & Ors.

Mr. Debdut Mukherjee,
Mr. Vivek Basu
... For the Petitioner.
Mr. Bibek Jyoti Basu,
Mr. Somnath Basu
... For the State.
Mr. Pawan Gupta,
Ms. Manish Shukla
... For the Respondent Nos. 4 & 5.

This matter was directed to appear under the heading "To Be Mentioned" on being mentioned by the learned Advocate for the State.

It has been submitted by Mr. Somnath Basu, learned Advocate that he appeared for the State along with Mr. Bibek Jyoti Basu on January 5, 2021. Through inadvertence, the name of Mr. Somnath Basu has not been recorded in the order dated January 5, 2021 as the learned Advocate for the State. It is recorded that Somnath Basu appeared for the State on January 5, 2021.

It appears from the order dated January 5, 2021 that the matter was directed to appear today for hearing. The learned Advocates for the respective parties submit that they are ready with the main

matter and as such, the instant writ petition is taken up for immediate consideration.

The writ petitioner claims to have obtained a decree from this Hon'ble Court in a suit for specific performance of contract. By the said decree, the purported deed of conveyance dated 3rd October, 1997 was cancelled.

It is the grievance of the writ petitioner that in spite of the fact that the said deed of conveyance has been cancelled by this Hon'ble Court in a suit for specific performance of contract, the private respondent Nos. 4 and 5 are using the said cancelled deed before various authorities as well as the Civil Court where a subsequent suit being Title Suit No.98 of 2011 is pending. The learned Advocate for the petitioner submits that the petitioner has made a complaint before the Police authorities requesting the Police authorities to take necessary action so as to dissuade the private respondents herein from pursuing their frivolous intention by using the cancelled deed of conveyance for any purpose whatsoever. The petitioner has approached this Court with a prayer for issuance of a writ in the nature of Mandamus commanding the respondent No.2 i.e. the Officer-in-Charge, Lake Town Police Station, Kolkata to obtain the original deed No.1166 for the year 1998

from the possession of the private respondents and destroy the same.

Mr. Basu, learned Advocate for the State submits that this application under Article 226 of the Constitution of India is a frivolous one and the same is liable to be dismissed. He submits that there is no inaction on the part of the Police authorities in the instant case as the petitioner has to take appropriate steps pursuant to the decree passed by this Hon'ble Court.

The learned Advocate for the private respondents submits that he has already been added as party in Title Suit No.98 of 2011. He submits that no order should be passed in the instant writ petition affecting the rights of the private respondents in the Civil Suit.

I have heard the learned Advocate for the respective parties and have considered the materials-on-record.

It appears from the decree dated 10.04.2001 passed by this Hon'ble Court that the deed of conveyance dated 3rd October, 1997 which was entered in deed No.1166 for the year 1998 under serial No.10068 in the office of the District Sub-Registrar, Barasat, 24 Parganas(North) by virtue of which the subsequent sale of property in favour of Lakhi Debi Jaiswal and Dilip Jaiswal have taken place in breach

and violation of the prohibitory order of injunction was cancelled and the same shall be delivered up.

This Hon'ble Court has already passed a decree in this regard and according to the petitioner, the said decree has already been executed. The issue as to whether a document can be relied upon before a Civil Court and marked as exhibits is a question to be considered by the Civil Court at the appropriate stage. It will be open to the writ petitioner herein to approach the appropriate forum and take steps in accordance with law. As such no order can be passed by the writ court directing the Police authorities to take possession of the deed of conveyance dated 3rd October, 1997 and destroy the same.

For the reasons as aforesaid, I am of the view that there is no inaction on the part of the Police authorities as alleged by the writ petitioner herein.

The writ petition being WPA 11086 of 2020 is, thus, devoid of any merit and the same is dismissed without, however, any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on priority basis upon compliance of all formalities.

(Hiranmay Bhattacharyya, J.)

