

05-08-2021
ct no. 13
Sl.67
sp

WPA 11722 of 2020
Smt. Ila Banerjee & Anr.
-Versus-
State of West Bengal & Ors.
(Via Video Conference)

Mr. R. Banerjee,
Mr. Sougata Mitra,
Mr. Rameswar Sinha

...for the petitioners

Mr. N.C. Bihani,
Mrs. Papiya Banerjee Bihani,
Mr. Soumyajit Ghosh,
Ms. Oindrila Ghosh

...for the State

Mr. Dhananjay Banerjee

....for the respondent no. 7

Mr. S.M. Obaidullah,
Mr. Sadik Ali

...for the respondent nos. 8 & 9

The writ petitioner complains that her eldest son, the respondent no.7 has fraudulently obtained her signature on a document, that he stated, was a power of attorney. It appears that the signature of the mother, the petitioner no.1 was obtained on a gift deed. The subject matter of the deed is an immovable property, standing in the name of the petitioner's late husband.

The respondent no.7 has thereafter entered into a development agreement with the respondent no.8 against the receipt of a sum of Rs. 2 lakhs. It is also submitted that the late husband of the

petitioner no.1, has two other houses at Purulia. The respondent no.7 is stated to be living at Purulia. The petitioner no. 1 is living with her three sons at the other house at Purulia. The incident of alleged forgery appears to have occurred sometime in the year 2016. A complaint has been lodged by the petitioner no.1 with the Bansdroni Police Station asking for cancellation of the deed of gift, recovery of cash and ornaments from the respondent no.7 and restoration of possession of the late husband's property at Kolkata. The petitioner no. 1 had also approached the State Human Rights Commission, who had forwarded her complaint for investigation to the SDO, Purulia, inter alia, under the provisions of the Senior Citizens Act, 2007.

The SDO, Purulia is stated to have submitted a preliminary report dated 13th May, 2021 to the Human Rights Commission and the matter is pending thereat.

Counsel for the State, Mr. Bihani has filed a report of the Bansdroni Police Station dated August 5, 2021. It appears from the report that the property of the family at Brahmapur, P.S.-Bansdroni, within Ward No. III of the Kolkata Municipal Corporation, has since been reduced to a flat land surrounded by a boundary wall, there is no construction available thereat.

The petitioner is a 77 years old senior citizen and is seeks relief before this Court.

It appears from the report of the Bansdrani Police Station that the FIR has been registered on the complaint of the petitioner no.1 dated December 2, 2020 and P.S. Case No. 130 dated 4.8.2021 under Sections 120B/467/468/471/420 and Section 406 of the IPC has been started.

This Court notes with anguish the delay of eight months in registering the FIR on the complaint of the petitioner no.1. The Officer-in-Charge, Bansdrani Police Station shall not repeat the aforesaid conduct. The investigation into the FIR shall be completed as expeditiously as possible preferably within a month from date.

The petitioner no.1 has filed a supplementary affidavit which contains a report of the SDO, Purulia addressed to the WBHRC dated May 13, 2021. Counsel for the State also produced a copy of the report. It appears therefrom that the proceedings taken up under the Maintenance and Welfare of Senior Citizens Act of 2007, have not been completed for pendency of the instant writ application.

It is directed that the SDO, Purulia shall conclude the proceedings and pass necessary order under the aforesaid Act of 2007 as expeditiously as possible, preferably within a

month from date. All due procedures under the said Act shall be followed.

Insofar as the land in Kolkata, the developer being respondent no.8 is hereby restrained from changing the nature and character of the property as on date and the same shall abide by any order that may be passed by the SDO, Purulia.

If the SDO, Purulia is of the view that the matter should be dealt with by a civil Court, the restraint as ordered, shall continue for a further period of four months since after the order of the SDO, Purulia.

The Officer-in-Charge, Bansdroni Police Station shall make sincere attempts to recover cash and jewellery stated to have been taken away by the respondent no. 7 after due investigation.

With the aforesaid directions, the writ petition is disposed of.

It is made clear that the above order and proceedings mentioned hereinabove, shall not prevent the respondent nos. 8 and 9 from taking out any proceedings against the respondent no.7

There shall be no order as to costs.

The supplementary affidavit, instructions of the Officer-in-Charge, Bansdroni Police Station dated August 5, 2021 and the report of the SDO, Purulia dated May 13, 2021 are retained on record.

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

(Rajasekhar Mantha, J.)