

25.01.2021
Item No.19
AP/ss

WPA 28 of 2021

Pranab Food Products Pvt. Ltd.
-Vs.-
The State of West Bengal & Ors.
(Through Video Conference)

Mr. Sunil Kumar Sarkar, Advocate
... for the Petitioner.

Mr. Subir Kumar Saha, A.G.P.
Mr. Momenur Rahman
... for the State.

Mr. Nabankur Paul
... for the respondent Nos.4 & 5.

Affidavit of service filed in Court today be
kept on record.

In this writ petition, inter alia, prayer is
made for police posting at the land of the writ
petitioner measuring 48 decimals under Mouza
Binnaguri, P.S. Bhaktinagar now N.J.P. in the
district of Jalpaiguri.

On the strength of sale deeds executed in the
year 2011 the petitioner is claiming to be the
owner of the said land. The case has been made
out in the writ petition that there has been
disturbance at the instance of the respondent
Nos.4 & 5 affecting peaceful enjoyment of the said
land owned by the petitioner.

On perusal of the writ petition it also
appears in paragraph 19 that a land measuring 5
kathas situated at the southern side of the land of

the petitioner, whereupon a Kali Temple is existing and one Shri Guru Ashram Committee might have possessed said land by virtue of a gift deed executed in the year 1984. During the course of submission made on behalf of the writ petitioner as well as the private respondents it appears that a suit has been instituted before the appropriate Civil Court for granting relief at the instance of the writ petitioner and the same is pending against said Shri Guru Ashram Committee.

It is further submitted on behalf of the writ petitioner that in the said pending Civil Suit prayer has been made for declaration of the gift deed as void. The writ petitioner has also initiated a proceeding under Section 144 of the Criminal Procedure Code for maintaining peace and tranquility in and around the area where the land of the petitioner is situated and on such proceedings order has been passed by the Executive Magistrate, Jalpaiguri.

It has been submitted on behalf of the private respondents, i.e. respondent Nos.4 and 5 herein, that the issue involved in this writ petition is civil in nature and a suit is pending before the appropriate Civil Court for adjudication of the issue and interference by the High Court in this writ petition at the present moment by way of

giving direction to the concerned police authority for deputing police personnel in order to maintain peace and tranquility in and around the said area where the land is situated, is not warranted.

Considering the rival submissions made on behalf of the writ petitioner as well as the private respondents it is found that there is pendency of the Civil Suit for declaration of the said gift deed executed in favour of Shri Guru Ashram Committee as void. Therefore, no relief as prayed for in this writ petition can be granted at the present moment, since the issue involved in this writ petition is civil in nature.

Accordingly the writ petition is dismissed. However, such dismissal of the writ petition shall not preclude the writ petitioner to take necessary steps in connection with the pending Civil Suit for appropriate legal remedy, if so advised.

There shall be no order as to costs.

Since no affidavit has been used on behalf of the respondents, the allegations made in the writ petition are deemed not to have been admitted.

Urgent Photostat certified copy of this order, if applied for, be given to the parties after compliance of all necessary formalities.

(Saugata Bhattacharyya, J.)