

March 30, 2022
Sl. No.4
Court No.1
SG/s.biswas

MAT 127 of 2022
With
CAN 1 of 2022

Debasree Roy and another
vs.
The State of West Bengal and others

Mr. Sukanta Chakrabarty,
Mr. Trinath Gangopadhyay,
Mr. Anindya Halder, Advocates

... for the appellants

Mr. Samrat Sent, Id. AAAG
Mr. Pantu Deb Roy,
Mr. Bhaskar Chakraborty, Advocates

... for the State

Mr. Debasish Roy,
Mr. Anniruddha Chatterjee,
Mr. Jaydeep Biswas,
Mr. Soumyadeep Das,
Mr. Kaushik Ghosh, Advocates

... for the respondent No.7

This appeal is at the instance of the appellants challenging the order of learned single Judge dated 03.02.2022 whereby the writ petition being WPA 127 of 2022, filed by the respondent No.7 (writ petitioner) has been allowed and the appellants have been directed to return the dog “Bruno” to the writ petitioner and her family members.

Respondent No.7 had approached the writ Court by way of the petition raising the plea that she had adopted the French Mastiff Dog, two and half years ago and the dog was vaccinated from time to time and several photographs were there with her showing that the dog remained with her and her family members. On 14.12.2021 the dog was missing from her home, being failed to find out the dog, a missing intimation was made

to the police. Later, the dog was traced out by the police and handed over to the appellants' foundation. The prayer made by the respondent No.7 for return of the dog was not accepted hence she had approached the writ Court.

Learned single Judge after taking note of the relevant circumstances of the case has found the respondent No.7 to be the owner of the dog and allowed the prayer made in the writ petition.

Learned counsel for the appellants referring to the pet doctor's certificate dated 26.01.2022 has submitted that the dog does not have microchip and does not have registration of KCI and had never attended dog show, therefore the ownership of the dog of respondent No.7 is not substantiated and that the dog was found 50 kilometers away from the house of the respondent No.7.

Learned counsel for the State has submitted that due enquiry was made by the police and the result shows that the respondent No.7 is the owner of the dog and that no one else came forward claiming the ownership of the dog.

Learned counsel for the respondent No.7 has also submitted that the dog belongs to her and there are several photographs of the dog with the son of the respondent No.7.

We have heard learned counsel for the parties and perused the report at the instance of the Officer-in-

Charge, Golf Green Police Station dated 09.03.2022 produced today as per the direction of this Court, which reveals that a thorough enquiry was conducted by visiting the house of the respondent No.7 and the police had collected vaccination card, doctor's prescriptions for the treatment of the dog "Bruno". These documents included in the report, clearly indicate that the claim of the respondent No.7 is duly authenticated. The report further reveals that during the enquiry the residents of the building and the local people were also contacted and the picture of the dog in question was shown to them and they had corroborated the fact that they had seen the same dog with similar size and colour several times in the custody of the respondent No.7 as well as her husband and child.

The order of learned single Judge also reveals that the dog was able to identify the writ petitioner and her minor son.

It is worth noting that apart from the respondent No.7 no other person has come forward claiming the ownership of the dog. So far as the appellants are concerned, being an NGO, for the time being they were entrusted with the custody of the dog for keeping the dog properly till the issue was decided. It is not disputed before this Court that the appellants have no independent claim over the dog in question.

In the aforesaid circumstances, we are of the opinion that learned single Judge has not committed any error in directing the appellants to return the dog to the respondent No.7. The order passed by learned single Judge also reveals that the appellants have the right to visit and inspect the dog at least once in a month.

Learned counsel for the respondent No.7 has fairly stated before this Court that the respondent No.7 will duly pay all the expenses which have been incurred by the appellants for keeping the dog till now.

In the above circumstances, we find no error in the order of the learned Single Judge.

Hence, we direct the appellants to hand over the custody of the dog to the respondent No.7 forthwith.

The appeal and connected application are disposed of accordingly.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]