

S/L 29  
18.11.2022  
Court No.652  
SD

CO 797 of 2020

Abu Taiyab  
Vs.  
Abdul Kasem & Ors.

*Mr. Ayan Banerjee*  
*Ms. Trina Sen*

*...for the Petitioner.*

*Mr. Sandip Ghosh*

*...for the Opposite Party Nos.1 & 2.*

Being aggrieved and dissatisfied with the order nos.29, 31 and 35 dated 29.7.2019, 20.9.2019 and 10.02.2020 passed by the learned Civil Judge (Junior Division), Additional Court at Chandernagore in Title Suit No.257 of 2017, the present revisional application has been preferred.

It is contended by the petitioner that the opposite party nos.1 to 4 instituted a suit for permanent injunction against the petitioner herein and the opposite party nos.5 to 8 for declaration that the property belongs to plaintiff and the recording of name of the defendant no.5 in the LR record of right is erroneous and the said suit was registered as Title Suit No.257 of 2017.

The petitioner filed written statement denying all material allegations. By way of amendment, plaintiffs subsequently incorporated a new prayer challenging the deed of gift executed in favour of defendant no.5 by her deceased mother. The opposite party nos.1 to 4 filed two

applications one under Order 11 Rule 14 of the C.P.C. and the other under Order 26 Rule 9 for appointment of handwriting expert. The petitioner filed written objection against the said two applications. The learned trial court was pleased to hear the application under Order 11 Rule 14 on July 27, 2019 and directed the defendant no.5 to produce the original deed of gift on the next date. As the defendant no.5 contended time and again that he is not in a position to produce the original gift deed as it was taken away by the police, the learned court rejected their contention/reply.

In the present proceeding, learned counsel appearing on behalf of the petitioner, submits that in the suit plaintiff has impleaded Collector Hooghly, DL&LRO Chinsurah, SDL&LRO Chandannagor and BL&LRO Singur as defendant nos.1 to 4 with a prayer for a declaration that the recording of Kha tafasil being LR 1806, Dag No.509 as recorded in the name of defendant no.5 by the defendant no.4 is erroneous, fraudulent and not acted upon the plaintiffs. But the learned counsel submits that this Hon'ble Court vide its order dated 29.8.2019 in WPLRT 26 of 2019 (Gopal Shasmal vs. The State of West Bengal & Ors.) with WPLRT 74 of 2019 (Tarapada Ghosh & Ors. vs. The State of West Bengal & Ors.) with WPLRT 80 of 2018 (Tarakeswar Palit & Ors. vs. The State of West Bengal & Ors.) was pleased to refer the same issue before a Larger Bench with the observation that the law needs to be settled once for all to facilitate disposal of several litigation pending on the same point before the revenue

authorities as well as the Tribunal. Learned counsel appearing on behalf of the petitioner submits that liberty may be given to him so that he can pray before the trial court for stay of all further proceeding of the suit and present revisional application may be disposed of accordingly.

Having considered the aforesaid facts and circumstances of the case this revisional application being CO 797 of 2020 is hereby disposed of giving liberty to the petitioner/defendant no.5 to make a prayer for stay of the suit before the trial court and if any such prayer is made before the trial court, the trial court will dispose of the said stay application at the earliest in accordance with law before proceeding further with the suit.

There will be no order as to costs.

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

**(Ajoy Kumar Mukherjee, J.)**