

24.08.2022
Sl. No.120(ML)
srm

W.P.A. No. 14313 of 2022

Sumanlata Gupta

Versus

The State of West Bengal & Ors.

Mr. Dilip Kumar Sinha

...for the Petitioner.

Mr. Amal Kumar Ghosh,

Mr. Shibendra Nath Chottpadhyay,

Mr. Gopal Chatterjee

...for the Respondent No.9 & 10.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the State-respondents.

The petitioner alleges inaction on the part of the Deputy Commissioner of Police, North Division, Kolkata. The allegation is that the said Officer had not taken cognizance of the letter dated April 11, 2022 issued by the petitioner with regard to non-payment of remaining Rs.21,00,000/- by the respondent Nos.9 and 10.

It is the contention of the petitioner that a verbal agreement was entered into between the petitioner and the said respondents. The said respondents had called the petitioner to an area near Great Eastern Hotel and offered Rs.40,00,000/- and thereafter by cheating the petitioner in collusion with the Registrar of Assurance-I, Kolkata and with the police authorities of Jorabagan Police Station, refused to

pay the money. Only an amount of Rs.19,00,000/- was paid to the petitioner. The petitioner prays for registration of an FIR against the respondent Nos.9 and 10.

The records do not reveal that the petitioner had ever filed any complaint before the Inspector-in-Charge, Jorabagan Police Station within whose jurisdiction the alleged property is situated. The petitioner filed an application before the Deputy Commissioner of Police, North Division, Kolkata with the abovementioned allegation. The records also do not reveal that there was any agreement between the petitioner and the respondent Nos.9 and 10 with regard to the sale of the property at Rs.40,00,000/-. The deed of indenture of sale records that an amount of Rs.10,00,000/- was the consideration amount. The memo of consideration also indicates the same. It appears that Rs.10,00,000/- was paid in two instalments to the account of the petitioner maintained with the HSBC Ltd. Further amount of Rs.9,00,000/- was admittedly transmitted in two instalments, to the account of the petitioner maintained with the Punjab National Bank.

The learned Advocate for the respondent Nos.9 and 10 denies the allegation that there was ever any agreement for payment of Rs.40,00,000/- and he relies on a registered deed of conveyance.

Under such circumstances, these are disputed questions of facts, which cannot be gone into by the writ court or by the police authorities. The petitioner has not been able to show any document, even a letter, that there was an agreement for sale of the property at Rs.40,00,000/-. On the contrary, the deed of conveyance, which has been registered and on the basis of which the possession has been delivered to the respondent Nos.9 and 10, indicates that the consideration money was Rs.10,00,000/-. Subsequently, the respondent Nos.9 and 10 have paid another Rs.9,00,000/-, but it does not before the Court on what account such payment was made.

Under such circumstances, this Court does not deem it fit to exercise its discretion and direct the police authorities to register an FIR as the dispute is entirely civil in nature. At best, the petitioner can file a suit for cancellation of the deed of sale on the grounds stated hereinabove, if permissible under the law.

This Court has not gone into the merits of the claims and counter claims between the parties.

The writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)