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09.11.2022
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 21015 of 2022

**Sri Sanjib Majumder
-versus
The State of West Bengal & Ors.**

**Mr. Sabyasachi Mukhopadhyay,
Ms. Koushikee Banerjee.
...For the Petitioner.**

**Mr. Sanjib Mitra.
...For the Respondent No. 6.**

**Mr. Soumitra Mulkherjee,
Mr. Rahul Das.
...For the Respondent No.5.**

Affidavit-of-service filed in Court today is taken on record.

The petitioner and the private respondents are full blooded brothers.

The petitioner submits that the property in question was amicably partitioned in between the three brothers and amicable partition deed was registered before the Registering Authority.

Copy of the said deed is annexed as annexure P-1 to the writ petition.

The petitioner further submits that the private respondents obtained building sanction plan from the Municipality relying upon forged documents.

Prayer has been made for cancellation of the building plan which has been obtained relying upon the forged deed of partition.

Learned advocate appearing for the private respondents submits that the deed of partition was duly registered and relying upon the same the Municipality mutated the premises in the name of the respective parties.

Sanction plan has been granted for making construction and the private respondents were making construction relying on the said sanctioned plan.

The Municipality is not represented in spite of service.

It appears from the submissions made on behalf of all the parties that a partition deed was duly entered and executed by and between the parties. The same was registered.

The petitioner relies upon the information allegedly obtained from the Registering Authority that no document with regard to the deed of partition is found on record.

The petitioner, however, admits the execution of the deed of partition and annexed the same as annexure P-1.

The private respondents also admit that the document at annexure P- 1 is the partition deed entered in between the parties.

The Municipality acted on the basis of the registered document and mutated the premises in the name of the respective parties. The Municipality also sanctioned plan for making construction thereon.

The Court is of the opinion that the issue of fraud and forgery as raised by the petitioner cannot and ought not to be adjudicated by the municipal authority.

It will be open for the petitioner to raise the issue of fraud and forgery before the appropriate forum, for relief, if so advised.

The prayer of the petitioner for issuance of a writ of mandamus upon the Municipality for consideration of his representation alleging fraud cannot be accepted by the Court.

In view of the above, the writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)