

Item No.6.

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

HEARD ON: 05.04.2023

DELIVERED ON: 05.04.2023

CORAM:
THE HON'BLE ACTING CHIEF JUSTICE T. S. SIVAGNANAM
AND
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA

**FMA 187 OF 2022
WITH
I.A. NO.CAN 1 OF 2021**

Mr. Sandeep Krishna Rohatgi & Anr.
Vs.
State of West Bengal & Ors.

Appearance:-

Mr. Sandeep Krishna Rohatgi **Appellant no.1-in-person.**

Mr. Amitesh Banerjee, Ld. Senior Advocate,
Mr. Suddhadev Adak ... **for the State.**

Mr. Alak Kumar Ghosh,
Mr. Swapan Kr. Debnath ... **for the KMC.**

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, ACJ.)

1. This intra-Court appeal by the writ petitioners appearing in person is directed against the order dated 25th June, 2021. The writ petition was filed for the following reliefs:-

- a) *A writ in the nature of Mandamus commanding the Respondents authorities to show cause as to why the Nabarun Sangha, nearby and patients were shifted to nearby Salvation Army Home, in the Free Camp they went house to house and talk negative of his own brother with the help of local Leaders. Clubs, etc. and we reap the good Deeds in the area and Behala, District South 24 Parganas. It is pertinent to mention the Hon'ble Court that this was the 1st Eye Surgery Centre since 1957.*
- b) *A writ in the nature of Mandamus commanding the respondents to issue Rule upon the Respondents that the pending disposal of the petition to stay the operation of the impugned order of punishment.*
- c) *A writ in the nature of certiorari directing the respondents concerned to produce or cause to be produced the all records before this Hon'ble Court so that conscionable justice may be done.*
- d) *Rule NISI in terms of prayer (a), (b) and (c) above.*
- e) *Cost and/or costs.*
- f) *To pass any other order or orders as your Lordships may deem fit and proper.*

2. The Learned Single Bench after elaborately hearing the petitioners in person held that the petitioners seek to protect the possession of an immovable property and therefore, they have to seek such a relief before the Civil Court. Aggrieved by the same, the petitioners have preferred the present appeal.

3. We have elaborately heard the petitioner no.1 appearing in person and we find that the order passed by the learned Single Bench is perfectly justified and in order since the

dispute is essentially a family dispute concerning properties. In fact, the petitioner no.1 appearing in person made several submissions pointing out as to how one of his blood brothers has joined hands with another set of persons and acting against the interest of the petitioners.

4. Further, it is submitted by the petitioner no.1 appearing in person that there is a will executed by the grandfather of the petitioner no.1 in respect of the said property.

5. All these issues cannot be agitated in a writ proceeding. Therefore, while dismissing the appeal and affirming the order passed by the learned Single Bench, we grant liberty to the petitioners to approach the appropriate Civil Court for necessary relief. Accordingly, the connected application is also dismissed.

6. There shall be no order as to costs.

7. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
Acting Chief Justice

I agree,

(HIRANMAY BHATTACHARYYA, J.)

NAREN/PALLAB (AR.C)