

AD-16
Ct No.09
20.07.2023
TN

WPA No. 12328 of 2023

Atindra Nath Mondal
Vs.
The State of West Bengal and others

Mr. Ashim Ghoshal,
Mr. S. Sanyal,
Mr. Ushananda Jain,
Ms. Susmita Adhikary

.... for the petitioner

Mr. Soumyajit Das Mahapatra,
Mr. Sujit Manna

.... for the respondent nos. 5 & 6

The supplementary affidavit and the affidavit-of-service filed in court today be kept on record.

Learned counsel for the petitioner submits that the petitioner is about eighty-six years old and is suffering from cancer. It is contended that the petitioner has filed a suit for declaration that a transfer deed allegedly executed by the petitioner is a fraudulent one. Such suit is still pending.

In the present writ petition, the petitioner has sought a direction on the concerned Registering Authority, to consider the representation of the petitioner. Although the representation is couched in

an innocuous form, the same virtually seeks to upset an assessment of stamp duty and registration costs which was made by the Registrar about three years back, in the year 2020. The said query pertains to the same deed, which has been challenged before the civil court, which challenge is still pending.

The petitioner alleges in the representation and in the writ petition that the Registering Authority erroneously assessed the payable duty, since the sale deed fraudulently showed the property involved therein to be of 800 sq. ft., whereas the actual area of the property is around 5,000 sq. ft.

It is contended that the Registering Authority is duty-bound in law to consider such objection taken by the petitioner.

Learned counsel for the private respondents submits that at least three other writ petitions have been filed, along with a mandamus appeal, on the self-same cause of action. A previous suit was also filed, but withdrawn. Moreover, four FIRs have been registered on the complaint of the petitioner.

It is further submitted that it is beyond the jurisdiction of the Registering Authority to make such enquiry as sought by the petitioner after three years. That apart, the said representation has been made

only to manufacture evidence for the purpose of the pending suit and to collect evidence.

Heard learned counsel for the parties.

There is substance in the contention of the private respondents.

Although learned counsel for the petitioner seeks to distinguish the causes of action of the other writ petitions filed by the petitioner, one of which apparently pertains to an electricity dispute, even apart from such consideration, the present representation or writ petition is not maintainable for several reasons.

First, the petitioner has no *locus standi* to resile from the assessment made three years back by the Registering Authority on a deed which has been impugned by the petitioner in a pending suit, asking for a reassessment of the said duty.

That apart, it is *de hors* the authority and powers of the Registering Authority to traverse beyond the subject-matter of the deed sought to be registered and the measurements as shown in the deeds sought to be registered, for the purpose of assessing stamp duty and registration fees.

It is not for the Registrar, within the ambit of the Registration Act, to go around enquiring in every case of registration as to the actual physical

measurements of the property. The Registrar's duty is merely to see whether the requirements under the Registration Act and allied Rules and Regulations are complied with. There being no allegation on such score, the issue raised in the representation of the petitioner need not be enquired into by the Registrar.

That apart, the private respondents are absolutely justified in suggesting that the entire exercise by the petitioner is for the purpose of manufacturing evidence to help the cause of the petitioner in the pending suit challenging the deed-in-issue.

Such roving enquiry by the petitioner cannot be justified under any pretence of advanced years or disease, irrespective of the age and ailment of the petitioner.

Hence, the relief sought in the writ petition cannot be granted.

Accordingly, WPA No. 12328 of 2023 is dismissed on contest, without any order as to costs.

Nothing in this order shall prejudice the rights and contentions of the parties in the other pending litigations, including the civil suit pending between the parties.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)