

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

Present

The Hon'ble Justice Siddhartha Roy Chowdhury

C.R.R. 1771 of 2010

Smt. Fulmala Mukherjee & Anr.

-Versus-

The State of West Bengal & Anr.

Mr. Milon Mukherjee, Id. Sr. Advocate

Mr. Biswajit Manna

...for the petitioners

Mr. P. Bose

..for the State

Heard on: 27.03.2023 & 20.04.2023

Judgment on : 20.04.2023

The Court:

Heard Mr. Mukherjee Learned Senior Counsel for the petitioners and Mr. Bose, learned counsel representing the State.

Perused the affidavit of service. Notice sent to the opposite party no. 2 returned unserved due to

insufficient address though the address tallies with the address given in the FIR.

This revisional application challenges legality of the proceeding being G.R. Case No. 690 of 2007, pending before the Court of learned Additional Chief Judicial Magistrate, Durgapur, arising out of Kanksa Police Station Case No. 109 of 2007 dated 24th August, 2007 under Sections 465/467/468/415/420 of the IPC.

Briefly stated Sri Dharmendra Chowdhury, opposite party no. 2 herein informed the Officer-in-Charge, Kanksa Police Station in writing that one Girija Bala Bandopadhyay was the owner of immovable properties comprising within R.S. Plot No. 4647 measuring about 33 decimals of land and Plot No. 4653 measuring about 47 decimals of land under Mouza – Bamunara within the District- Burdwan. The said Girija Bala Bandopadhyay died intestate leaving behind her only one son, namely, Sushil Chandra Bandopadhyay as her legal heir and successor. Sushil Chandra Bandopadhyay acquired the property by inheritance and transferred the aforesaid property in favour of Manoranjan Acharya by executing a deed of sale being

No. 1631, registered before the Sub-Registrar, Raniganj on 24th February, 1961. Manoranjan Acharya sold and transferred the said property to one Hara Kumar Hazra by a registered deed of conveyance being No. 3273 dated 17th June, 1978. The said Hare Kumar Hazra transferred the property in favour of Smt. Suma Devi, wife of Raj Kumar Chowdhury by registered deed of sale executed before the Sub-Registrar, Durgapur being Sale Deed No. 1119 dated 6th March, 1979. Suma Devi was possessing the said property by mutating her name in the revenue records and by paying rates and taxes. After the demise of Suma Devi, Dharmendra Chowdhury, Ranjit Chowdhury and Jitendra Chowdhury stepped into her shoes and acquired ownership of the property by way of inheritance.

Smt. Fulmala Mukherjee, daughter of Sushil Chandra Bandopadhyay and granddaughter of Girija Bala Bandopadhyay executed a power of attorney in favour of her son Biswarup Mukherjee, who sold and transferred the aforesaid property in favour of Calstar Sponge Ltd. by executing two Deeds of Conveyance being Nos. 5209 of 2004 and 5210 of 2004 respectively,

though they had neither title nor the authority to transfer the same. It is alleged that Fulmala Mukherjee and her son Biswarup Mukherjee received a sum of Rs. 4,37,723/- as consideration money and executed the deed. According to the complainant, it was an act of forgery on the part of Mukherjees.

On the basis of such information, Kanksa Police Station Case No. 109 of 2007 was registered under Sections 465/467/468/415/420 of the IPC.

Mr. Mukherjee, learned Senior Counsel representing the petitioner submits that it is out and out a civil dispute which has been imbibed with the colour of criminality. It is further contended that Biswarup Mukherjee executed the Deed of Conveyance as an attorney of Smt. Fulmala Mukherjee, hence by no stretch of imagination, it could be said that the document was forged. Whether Smt. Fulmala Mukherjee had the right, title and interest to transfer the property in favour of the vendor, Calstar Sponge Ltd. or not is undoubtedly a dispute, to be adjudicated by the Civil Court.

The criminal case being G.R. Case No. 690 of 2007, pending before the learned Additional Chief

Judicial Magistrate, Durgapur has a flavour of civil dispute thus ex facie appears to have been attended with mala fide and in my humble opinion to avert the abuse of process of law, the said proceeding should be quashed, which I accordingly do. However, this judgment will not preclude either of the parties to take the appropriate steps before the appropriate forum.

Thus, the criminal revisional application is disposed of.

Copy of the judgment be sent down to the learned Trial Court for information and for necessary action.

The matter is adjourned to appear on 16th May, 2023 with liberty to mention.

(Siddhartha Roy Chowdhury, J.)