

Court No. 14
06.9.2023
(Item No. 11)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
W.P.A. 18730 of 2023

Dilip Roy
VS
The State of West Bengal & Ors.

Mr. Anjan Bhattacharya
Mr. Sandip Kumar Mondal
Ms. Riya Das for the petitioner
Mr. Wasim Ahmed
Mr. Sk. Md. Masud For the State
Mr. Tanoy Chakraborty
Mr. Rajiv Lochan Chakraborty
Ms. Vaswati Chakraborty
.... For respondent No. 4

Affidavit of service filed by the petitioners is taken on record.

Report filed on behalf of the State is also taken on record.

Learned counsel on behalf of the petitioner submits as follows. The petitioner had entered into an agreement to purchase a shop from the private respondent. Initially he paid a sum of Rs.5 lakhs out of a total consideration amount of Rs.28 Lakhs. Thereafter he paid another sum of Rupees one and half lakhs. However, the private respondent has not gone ahead with the deal and it has come to the notice of the petitioner that the private respondent had taken the money inspite of the property being mortgaged and without disclosing the same to the petitioner.

Learned counsel appearing on behalf of the private respondent submits that the initial sum was

taken only so that the mortgage could be released and this was within the knowledge of the present petitioner.

Learned counsel appearing on behalf of the State submits that it is civil dispute pending between the parties.

It appears that there is a dispute between the private parties over purchase of a property. The petitioner alleged that a prior mortgage was not disclosed which is denied by the private respondent.

If the petitioner is of the view that there is a some criminality involved, he shall be at liberty to take steps by approaching the Superintendent of Police in case the complaint is not entertained by the local police, failing which it shall be open to him to file an application before the jurisdictional Magistrate under Section 156(3) of the Code. On this reliance may be placed on the decision in Aleque Padmasee's case, (2007) 6 SCC 171.

As affidavits were not called for, the allegations made are deemed not to have been admitted.

With the aforesaid observations, the writ petition is disposed of.

Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Jay Sengupta, J.)