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09.10.2023  
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IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE

W.P.A. No.22597 of 2023

Sri Sujaush Daas & Anr.  
Vs.  
The State of West Bengal & Ors.

Mr. Debasish Chattopadhyay,  
Mr. Tirthankar Basu  
...for the petitioners

Mr. Amal Kumar Sen,  
Mr. Lal Mohan Basu  
...for the State

1. The short question involved here is whether the registering authority was justified in insisting upon further documents and refusing to register the deed proposed to be registered by the petitioners on the ground that the petitioners had not produced certain documents to satisfy the authorities.
2. Learned counsel for the petitioners contends that the same is beyond the domain of the registering authority. Learned counsel for the petitioners places reliance on two judgments of this Court. The first judgment is that of *Sunil Kumar Das vs. State of West Bengal & Ors*, reported at 2000(2) CHN 160 and the other is an unreported judgement in *Jitendra Chandra Barai vs. State of West Bengal & Ors*. In both the said judgments, it was categorically observed by coordinate Benches

that the registering authority cannot direct the petitioners to show that they have obtained permission of the lessor before execution of transfer deed. It was observed by the courts in both the cases that the registering authorities are required to see whether the duties cast upon such authorities under the Indian Stamp Act and Indian Registration Act are complied with.

3. Learned counsel appearing for the State contends that it was well within the authority of the registrar to ascertain the veracity of the transfer to the extent that the petitioners had to produce appropriate documents in support of such transfer. By pointing out to certain clauses of the deed proposed to be transferred, it is argued that the same mention that the authority concerned, that is, the Estate Manager, Kalyani, has not refused the application for transfer of permission within one month/thirty days from the date of receipt of such application and, as such, it is presumed that the same is deemed to be permitted.

4. Learned counsel places reliance on the judgment of the Supreme Court, reported at 2016 (10) SCC 767 (*Satya Pal Anand vs. State of Madhya Pradesh & Ors.*) in that regard. Learned counsel also places reliance on the judgment of the Supreme Court, reported at (2016) 4 SCC 204

(*Surjeet Singh Bhamra vs. Bank of India & Ors.*) and argues that in case of a deeming fiction, the operation of the same is not automatic and the person concerned is to show the relevant clause.

5. Insofar as the second judgment cited by the State is concerned, the same is not applicable in case of registration. The Supreme Court, while considering a deeming fiction, observed that the operation of the said deeming fiction is not automatic but the employee concerned is to show the relevant clause.

6. However, the registering authority is not the appropriate authority which decides the right, title and/or interest of the parties and, as such, cannot insist on production of the “relevant clause” by any of the parties to a deed sought to be registered.

7. As held by the coordinate Benches of this Court in the judgments cited by the petitioners, the only exercise which the registering authority is required to undertake is to ascertain whether the provisions of Indian Stamp Act and the Indian Registration Act have been complied with duly.

8. Questions beyond the domain of such limited issues are not within the charter of the registering authority to ascertain. Insofar as the judgment in *Satya Pal Anand vs. State of Madhya Pradesh (supra)* is concerned, the Supreme Court held that

Section 35 of the Indian Registration Act does not confer a quasi judicial power on the registering authority and the registering authority is expected to re-assure that the document to be registered is accompanied by supporting documents. The Supreme Court, in fact, observed that the authority is not expected to evaluate the title or irregularity in the document as such.

9. It is exactly what was prohibited by the Supreme Court that has been insisted upon by the registering authority in the instant case. The reliance of the parties to the document on a particular clause of bye-laws and/or the law is not required to be substantiated by the parties to the deed before the registering authorities to satisfy the authorities on the said law. Such provision of law cannot be said to be “supporting documents” within the contemplation of the above judgment.

10. Rather, the said question can only fall for consideration before the appropriate and competent civil court and/or other forum which is called upon to decide upon the title and/or the rights conferred by the deed-in-question. The registering authority, however, went beyond its jurisdiction in insisting upon such further satisfaction as to the rights and titles of the parties to convey the property.

11. In such view of the matter, W.P.A. No.22597 of 2023 is allowed, thereby directing the respondents/registering authorities to immediately register the deed produced by the petitioners for registration, subject to the petitioners complying with all formalities within the contemplation of the Indian Stamp Act and the Indian Registration Act, including deposit of the concerned fees and stamp duties as assessed by the registering authority.

12. The respondent/registering authority shall complete such process of registration and hand over the registered documents to the petitioners within three weeks from the date of such compliance by the petitioners.

13. There will be no order as to costs.

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

Sabyasachi Bhattacharyya, J.