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18.12.2023
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 26347 of 2023

Nikhil Kumar Sarkar
Vs.
The State of West Bengal & Ors.

Mr. Soham De Dhara,
Ms. Arunima Ghosh
...for the petitioner

Mr. Tanoy Chakraborty,
Mr. Saptak Sanyal
...for the State

Mr. Jayanta Narayan Chatterjee,
Ms. Nandini Chatterjee,
Mr. Supreem Naskar,
Ms. Sreeparna Ghosh
...for the respondent nos. 7 and 8

1. Learned counsel for the parties submit that when the petitioner went to the premises along with his learned counsel, learned counsel approached the concerned almirahs, but those could not be opened with the keys provided by the petitioner to this counsel. Ultimately, however, those were opened with the keys furnished by the private respondent no. 7.

2. Accordingly, it transpires that the petitioner's claims to the documents allegedly lying in the almirah cannot immediately be resolved.

3. There also arises the question as to the title of the petitioner in the immovables lying in the property-in-question.

4. Learned counsel appearing for the respondent nos. 7 and 8 also raises the issue of non-joinder of other necessary co-owners of the property to the present writ petition. Learned counsel for the respondent nos. 7 and 8 also argues that previously a search warrant was issued at the behest of the petitioner but the petitioner did not further appear in the matter, for which the same was dismissed for default. Accordingly, the present writ petition is a reiteration of the same claim, which ought not to be entertained.

5. Be that as it may, since the petitioner's remedies are with regard to the right, title and interest in the movable properties lying in the immovable properties-in-question, the appropriate remedy of the petitioner is not before the writ court or the criminal court but before the competent civil court.

6. Accordingly, W.P.A. No. 26347 of 2023 is disposed of with liberty to the petitioner to approach the competent civil court having jurisdiction to ventilate his grievances with

regard to the movable properties lying at the premises-in-question.

7. If so approached, the said court will decide the same independently and in accordance with law without being influenced in any manner by any of the observations made herein.

8. There will be no order as to costs.

9. 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.)