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**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

C.O. 3956 of 2022

**Harekrishna Maity
versus
Sri Kalyan Kumar Kundu**

Mr. Prantik Ghosh
Mr. Siddhartha Sarkar
Mr. Akash Ghosh

... For the petitioner

This revisional application is filed by the petitioner under Article 227 of the Constitution of India challenging order No.76 dated 9th December, 2022 passed by the learned District Judge, Paschim Medinipur in J. Misc. Case No.81 of 2009 rejecting the application of the petitioner for direction to the *sebait* to sell out the property to him.

The brief fact of the case is that the opposite party is the *sebait* of “Sri Sri Radha Govinda Jew Thakur”. The *debottar* property is comprised within Mouza Kulkota, J.L. No.169, R.S. Khatian No.607, L.R. Khatian No.108, Plot Nos.181, 199, 199/673, 202, 175, 199/740 and 174. The opposite party filed an application before the learned District Judge, Paschim Medinipur seeking permission to sell out the aforesaid *debottar* property for management of *debottar* estate being J. Misc. Case No.81 of 2009. By order No. 25 dated 30th April, 2013, the learned District Judge granted permission to the

opposite party-*sebait* to sell out 2 acres 56 decimals of land as described in the schedule of the application at the highest market price of not less than Rs.3,58,46,073/-. In the said application, the petitioner and two others were shown as intending purchasers who have consented to purchase the *debottar* property. After passing of the aforesaid order the petitioner along with two others entered into agreement for sale on 28th May, 2013 with opposite party-*sebait*. Since the property was not transferred to the petitioner and others in terms of agreement dated 28th May, 2013, the petitioner approached the learned District Judge by filing application on 7th October, 2021 seeking direction upon the opposite party-*sebait* to sell the property in favour of the petitioner. The said application was rejected by the learned District Judge, Paschim Medinipur. Hence, this revision.

Mr. Prantik Ghosh, learned Advocate for the petitioner submits that the petitioner and two others were shown as intending purchasers in the original application filed by the *sebait* seeking permission to sell out 2.56 acres of land in the schedule to the said application. Though agreement for sale was entered between the petitioner and two others with the *sebait*, yet the opposite party-*sebait* refused to transfer the land agreed upon to be sold to the petitioner. He further submits that the learned trial Court failed to appreciate

that the considerable amount of money has already been paid to the *sebait* by way of the agreement for sale and the petitioner being the intending purchaser is also willing to complete the transaction by making the payment of the entire amount as agreed upon. However, the *sebait* is arbitrarily refusing to execute the deed of sale in favour of the petitioner and two others in terms of agreement for sale. He also submits that the *sebait*, in order to prevent the petitioner from getting the property in question, has filed the civil suit alleging apprehension of illegal dispossession from the *debottar* property which is registered as Title Suit No. 663 of 2019 pending before the learned Civil Judge, 3rd Court (Junior Division), Paschim Medinipur. He submits that the order passed by the learned District Judge be set aside and direction be given to the *sebait* for executing the deed of sale in favour of the petitioner.

At the outset upon going through the order no.25 dated 30th April, 2013 passed in J. Misc. Case No.81 of 2009 it is found that the learned District Judge permitted the opposite party-*sebait* to sell 2 acres 56 decimals of land which is admittedly a *debottar* property mentioned in the schedule of the application at the highest market price not less than Rs.3,58,46,073/-.

Needless to mention that no such direction was issued upon the *sebait* to transfer the land in favour of the petitioner. From the impugned order, it is found that

the petitioner filed an application on 02.01.2019 for impleading him as a party to the proceeding. The said application was rejected by the learned District Judge which was assailed in revision before the Hon'ble High Court, Calcutta being C.O. No. 1307 of 2021. Though the petitioner submitted before the Hon'ble High Court that he is the intending purchaser of *debottar* estate which was permitted to be sold, yet the Hon'ble High Court did not interfere with the rejection of the application for impleading the petitioner as a party to the proceeding. Such aspect has been taken note of by the learned District Judge while rejecting the application of the petitioner for direction upon the *sebait* to sell the property to him. The agreement for sale has been entered between the petitioner and two others with the *sebait* on 28th May, 2013 after passing of the order in J. Misc. Case No.81 of 2009. Dispute in relation to performance of any contract between parties is altogether a separate issue which is to be dealt with by the appropriate Court in accordance with law. Such being the position, I do not find any impropriety in the impugned order passed by the learned District Judge.

In view of the above, the revisional application being **C.O. 3956 of 2022** stands dismissed.

All connected applications, if any, stand disposed of.

Interim order, if any, stands vacated.

Urgent photostat copy of this order, if applied for, be given to the parties upon compliance of necessary legal formalities.

(Bivas Pattanayak, J.)