

Form J(1)

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
Constitutional Writ Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

**WPA 824 of 2019
Hanuman Prasad Chandak
Vs.
The State of West Bengal and Ors.**

**For the Petitioner : Mr. Amales Ray, Adv.,
Mr. Deborshi Dhar, Adv.,**

**For the State : Mr. Subir Kr. Saha, AGP.,
Mr. Bikramaditya Ghosh, Adv.**

Heard & Judgment On : 8th February, 2023.

Bibek Chaudhuri, J.

Petitioner is the owner of a piece of land measuring about 54 decimal appertaining to R.S plot No.110/192 corresponding to L.R plot No.2 khatian No.2033 of mouza Dabgram. The said plot has duly been recorded in the name of the petitioner. The petitioner along with others intended to transfer and alienate the said plot of land by executing a deed of conveyance in favour of the prospective purchaser. Accordingly, the petitioner and other executants jointly presented a deed of conveyance by registration in the office of the District Registrar, Jalpaiguri on 19.07.2019. After presentation the respondent authority refused to cause registration of the deed and the petitioner came to

know the reason for denial of registration of the said deed from the online portal as “suspected”.

Under such circumstances, the petitioner has prayed for issuance of writ in the nature of mandamus directing the respondent to cancel Memo No.5326(2)/IM-24/2017 dated 28th September, 2017 issued by the Inspector General of Registration and Commissioner of Stamp Revenue, respondent No.2 herein and allow the petitioner to present the deed of conveyance pertaining to the aforesaid property before the concerned Registering Officer through the system of computerization of registration of documents software for registration in accordance with law.

It is submitted by the learned Advocate for the petitioner that one Sunil Kr. Roy and Gayetri Roy filed a suit for declaration, injunction and consequential reliefs in respect of the suit property against Ramkrishna Mission, Jalpaiguri Branch and others in the court of the learned Civil Judge (Junior Division) at Jalpaiguri. By an order dated 15.07.2017 the learned Civil Judge (Junior Division) passed an order of injunction directing the parties to maintain status quo in respect of the nature, character and possession of the suit property and restrain the parties from making any third party interest in any manner whatsoever till the disposal of the suit. The defendants filed Misc Appeal No.32 of 2017 before the District Judge, Jalpaiguri. The said appeal was disposed of by

the learned District Judge and the defendant No.2 was appointed as receiver in respect of the suit property with the following rights:-

“1. The receiver shall have right to inquire of the physical structure of the suit property and if it appears to him that it requires minimum repair he shall bring the matter to the notice of the Ld. Court and with the permission of the Ld. Trial Court he shall make the necessary repair of the suit property. The receiver shall, in that case, submit a bill incurred by him for such repair before the Ld. Court. If the suit of the plaintiffs succeed, in that case plaintiffs shall deposit that amount to the court for making payment to the defendant No.2.

2. The receiver shall have every right to take information about the official matters i.e. tax, electric bill and rents in respect of the suit property. If he finds any dues he shall pay the same and the bill of this expenditure shall be submitted before the Ld. Court. If the suit of the plaintiffs succeed, in that case plaintiffs shall deposit that amount to the court for making payment to the defendant No.2.

3. The receiver shall have also right to take information in respect of any person other than the wife or the sons and daughters of the original plaintiff No.1 and if it is found that nay stranger is residing there or is trying to reside there he shall bring the matter to the notice of the Ld. Court and with the permission of the Ld. Court he can take legal action.”

The said order was passed before the respondent No.2 and the respondent No.2 issued memo No.5326 dated 28th September, 2018 directing all Registering Officer not to register any document containing in respect of the suit property.

Having heard the learned Advocate for the petitioner and the respondents and on careful perusal of the entire materials on record it is

ascertained that impugned memo No.5326 dated 28th September, 2018 was issue by the respondent No.2 in view of the order passed by the learned District Judge, Jalpaiguri in Misc Appeal No.32 of 2017. The petitioner is not a party to the said suit.

If the petitioner's right to enjoy the suit property is effected in any way by virtue of institution of civil suit and order passed in Misc Appeal No.32 of 2017 by the learned District Judge, Jalpaiguri, the petitioner is at liberty to make appropriate application for adding himself as a party to the suit under order 1 Rule 10(2) of the Code of Civil Procedure and pray for necessary modification of the order passed by the leaned District Judge, Jalpaiguri in Misc Appeal No.32 of 2017, so that enjoyment of property in not disturbed during the pendency of the suit. It is needless to say that right to transfer one's own land is also free right of enjoyment of the property.

In view of the existence of competent Civil Court's order, this Court is not in a position to grant any relief to the petitioner. Therefore, the instant writ petition is dismissed on contest however, without any costs.

The petitioner is at liberty to pray for appropriate relief in the competent Civil Court.

(Bibek Chaudhuri, J.)