

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/1104/2023

SRI SANKAR DUTTA AND ORS.
VERSUS
THE STATE OF WEST BENGAL AND ORS.

BEFORE :
THE HON'BLE JUSTICE SABYASACHI BHATTACHARYYA
Date : 6th July, 2023

Appearance:
Ms. Jhuma Chakraborty, Adv.
Mr. Saurav Roy, Adv.
...for the petitioners.

Mr. Ayan Banerjee, Adv.
...for the respondents.

The Court : Affidavit of service filed in Court be taken on record.

Learned counsel appearing for the petitioners contends that the private respondents, by exercising fraud and forgery, have had a power of attorney executed and registered. It is submitted that in clause (a) thereof (at page 46 of the writ petition), it is mentioned that the appointers are the absolute owners/trustees/Shebaites of the concerned idol. However, the said capacity has been misrepresented.

Accordingly, the petitioners lodged complaint with the Police authorities as well as the respondent authorities. However, no heed was paid by the registering authority, including the Registrar of Assurance and the Additional Registrars of Assurances, in that regard. It is submitted that the said respondents ought to have given a hearing to the petitioners and decided the issue in accordance with law.

Learned counsel appearing for the respondent authorities points out that, admittedly, a suit is pending at the behest of the petitioners in the Original Side of this Court.

Since the subject-matter in dispute is beyond the scope of the registering authority to decide, it is submitted that the matter is required to be decided in suit itself.

Heard learned counsel. The submission of the respondent authorities is justified. Since a suit has admittedly been instituted, virtually for the self-same reliefs, by the petitioners before the appropriate civil court, which is the Original Side of this Court itself, a further cause of action does not arise for the Registrar of Assurance to deal with.

In any event, the dispute raised herein as regards the document-in-question being forged, manufactured etc., is beyond the jurisdiction of the Registrar to decide.

Since there is no allegation in the writ petition as regards the registration itself being vitiated by non-compliance of any law pertaining to registration, it is beyond the scope of the registering authority to consider the dispute raised herein.

Accordingly, WPO/1104/2023 is disposed of by granting liberty to claim all the reliefs as sought herein in the petitioners' pending suit.

It is made clear that the merits of the allegations and counter-allegations of the parties have not been gone into by this Court.

No order as to costs.

(SABYASACHI BHATTACHARYYA, J.)