

1.3.2024
102
Ct. no. 652
sb

CO 263 of 2021

**Shefali Das, since deceased, rep. by
Pradip Kumar Das @ Shibu Das & Anr.
Vs.
Asutosh Roy**

Ms. Sohini Chakraborty
Mr. Mir Anowar ...for the Petitioners

Mr. Partha Pratim Roy
Mr. Anirban Das ...for the Opposite party

Opposite party herein filed suit for eviction and recovery of khas possession against the petitioner herein being Title Suit no. 32 of 2015. In the said suit, the plaintiff contended that one Indrajit Das, since deceased, being the husband of the petitioner herein was the original owner of the suit property and said Indrajit Das by alleged registered deed of gift dated 1.2.2010, gifted the suit property in favour of one of his sons namely, Sankar Das. Subsequently, said Sankar Das transferred the suit property to the opposite party herein by another registered deed dated 3.11.2014.

The petitioner herein being the helpless widow of original owner/doner Indrarjit, has become shocked and surprised, as to how her husband gifted the said property to a particular son without thinking about the original petitioner and the other sons of

petitioner. Accordingly she appeared in the said suit and filed written statement stating all the facts and circumstances.

Thereafter, other son of said Indrajit Das namely, Pradip Das @ Shibu Das challenging the said registered deed of gift and the subsequent sale in favour of the opposite party herein, filed Title Suit no. 132 of 2017 wherein he has prayed for declaring aforesaid two deeds as void. In the earlier proceeding initiated by the opposite party herein being Title Suit no. 32 of 2015, the petitioner herein filed an application for stay of the said proceeding till the disposal of the later suit being Title Suit no. 132 of 2017 filed by the petitioner herein.

Learned court below after contested hearing, came to a finding that the suit initiated by the opposite party herein being Title Suit no. 32 of 2015 is the earlier one and as such by invoking Section 10 of the Code of Civil Procedure, said earlier suit cannot be stayed till disposal of the later suit.

Being aggrieved by that order, Ms. Sohini Chakraborty, learned counsel for the petitioners submits that the petitioners have challenged the registered deed of gift and the subsequent sale in favour of the opposite party which is the later suit and in the event, the decree of eviction is passed in the earlier suit, then the subsequent suit filed by the

petitioners herein will become infructuous. She further submits that even if the Trial Court was of the view that the earlier suit cannot be stayed, she ought to have ordered for an analogous hearing of both the suits.

Mr. Anirban Das, learned counsel for the opposite party submits that the court below has correctly interpreted the law and since the suit filed by the opposite party herein is the earlier one, it cannot be stayed. In such view of the matter and in the absence of any illegality or impropriety in the order impugned, the said order does not call for any interference by this court invoking jurisdiction under Article 227 of the Constitution of India.

Having considered the facts and circumstances of the case, it appears to me that since the petitioner herein challenging the title of the opposite party and his vendor has filed the later suit, so the earlier suit for eviction as well as the later suit questioning title of the opposite party herein required to be heard analogously in the interest of justice for avoiding multiplicity of litigations, needless expenses and inconvenience to the parties. Accordingly, consolidation of adjudication of the two suits is badly needed in the present context so that the dispute between the parties can be resolved effectively and conclusively.

In such view of the matter, the court below is directed to hear the Title Suit no. 32 of 2015 along with Title Suit no. 132 of 2017 analogously from the stage where it reached as on this date and to adjudicate both the suits by a single judgment as expeditiously as possible without granting any unnecessary adjournment to either of the parties.

C.O. 263 of 2021 is accordingly disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Ajoy Kumar Mukherjee, J.)