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29.11.2024
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ct.no.35

W.P.A.8508 of 2022

**Mr. Swapan Kumar Bera
Versus
The State of West Bengal & Ors.**

Ms. Debanwita Pramanik.
...for the petitioner.

Mr. Amitesh Banerjee
Mr. Tarak Karan.
...for the State-respondents.

Mr. Partha Sarkar.
...for the respondent no.6.

Affidavit-of-service filed by the petitioner be
kept with the record.

Petitioner claims that he has been shown to
be a dead person and his property has been
transferred. In spite of informing the police
authorities, no action has been taken on and from
17th December, 2021.

Learned advocate appearing for the petitioner
has relied upon the documents which relate to the gift
deed as also other documents.

This Court need not enter into the zone so far
as the documents are concerned which are to be
ascertained by the police authorities in course of
investigation.

Mr. Banerjee, learned Senior Standing Counsel appearing on behalf of the State submits that with passage of time as there was no persuasion the police authorities till date has not registered any case.

A report has been submitted by the State which reflects that G.D. Entry was initially registered by Pursurah Police Station. However, the police authorities claim that the parties have represented and they would subsequently amicably settle the matter.

Learned advocate for the petitioner disputes the said contentions.

Learned advocate for the private respondent no.6 submits that the part of the property to which they have relied they have only acted upon the same and the same is without prejudice to the rights of the petitioner.

Be that as it may, prima facie, the case of the petitioner is that in respect of a person who is alive by way of documentation he has been shown to be dead and consequently property has been transferred.

In view of the aforesaid, I am of the preliminary opinion that a cause of action has surfaced. In view of the fact that the police authorities are not willing to act, petitioner would be at liberty to approach the jurisdictional criminal court by invoking

the powers under Section 175(3) of the BNSS. Learned CJM would consider the spirit of the order as stated above including the materials placed by the petitioner and pass necessary orders.

With the aforesaid observations, WPA 8508 of 2022 is disposed of.

There will be no order as to costs.

Report so submitted by the State be kept with the record.

As neither the State-respondents or the private respondent no.6 have filed any affidavit, the accusations made against the State-respondents and the private respondent no.6 are deemed to be denied and disputed.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

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

(Tirthankar Ghosh, J.)