

10.07.2024
Ct. No. 09
Item No.11
Cp

WPA No. 9690 of 2024

Biswajit Bandyopadhyay & ors.
Vs.
The State of West Bengal & ors.

Mr. Subhabrata Datta
Mr. Abdul Rakib
Mr. Arijit Pradhan

....for the petitioners.

Mr. K. J. Yusuf
Ms. Munmun Ganguly

.....for the State.

The petitioners are some of the children of Sabita Banerjee. The petitioners contend that the respondent no. 7 in connivance with the respondent nos. 8 and 9 created some documents and made Sabita Banerjee sign the same by taking advantage of her old and infirm condition. The specific contentions of the petitioners are that the other children of the owner of the property caused the properties to be sold and also gifted to third parties, but not a single farthing had been paid to their mother. The other children misappropriated the consideration money.

Relying on Section 58(c) of the Registration Act, it is submitted that the Memo of Registration was also not filled in properly and the Additional Registrar of Assurance – II, Kolkata registered the document without necessary compliance. Thus, interference of

this court under Article 226 of the Constitution is being prayed on the ground that the Additional Registrar of Assurance – II, Kolkata failed to proceed in accordance with law in discharging his official function by violating the provisions of Section 58(c) of the said Act.

Learned advocate for the State respondents has handed over a report prepared by the Additional Registrar of Assurance – II, Kolkata. It appears from the report that the deed was presented and admitted on November 27, 2023. The deed was duly registered and thereafter, on the allegations made by the petitioners, the writ petition was filed. The mother, Sabita Banerjee wrote a letter to the Additional Registrar of Assurance – II, Kolkata indicating that she had sold and gifted the properties on her own free will without any pressure from anybody. Rather, allegations have been made against the petitioners. The advocate of Sabita Banerjee had also intimated the buyer about the activities of the petitioners which were not as per the direction of Sabita Banerjee and asked for the names of those persons who were creating a problem.

The owner of the property has not challenged the transactions/deeds. The owner of the property has not approached this court. The owner of the property wrote to the Additional Registrar of

Assurance – II, Kolkata indicating that the transactions had taken place on her own free will. Thus, the writ court cannot go into the matter.

Moreover, a registered document has a presumption of correctness. The validity of a registered document should be decided in a suit. The person who executed the deeds has not challenged the same. Thus, unless a civil court cancels the deeds, the writ court cannot direct the Registrar to cancel the registration. Whether the mother signed the document at all or whether she was forced to sign the document cannot be decided in this proceeding. However, if there is any other pending proceeding in this regard, the same shall continue.

The writ petition is accordingly disposed of.

There shall be no order as to costs.

All parties are to act on the basis of server copy of this order.

(Shampa Sarkar, J.)