

WPLRT 69 of 2024
(Sahidul Islam & Ors. Vs. The State of
West Bengal & Ors.)

Ms. Sohini Chakraborty
Mr. Safikul Islam

..... For the petitioners

Sk. Md. Galib
Mr. Manish Biswas

..... For the State respondents

Mr. Mrinal Kanti Ghosh
Mr. Manoranjan Jana
Ms. Mitali Jana

..... For the respondent nos. 5 & 6

The present writ petition has been preferred challenging an order dated 9th April, 2024 passed by the learned Tribunal in the Original Application (in short, OA), being OA 1512 of 2017. By the said order, the learned Tribunal refused to interfere with the order passed by the Appellate Authority on 9th February, 2017 in the LR Appeal Case Nos. 124/2013, 125/2013 and 126/2013 directing, *inter alia*, that the '*petitioners would be at liberty to take recourse to the civil forum for declaration of their title*'.

Drawing our attention to the order dated 9th February, 2013 passed by the Appellate Authority, Ms. Chakraborty, learned advocate appearing for the petitioners submits that in spite of arriving at a finding that the petitioners' claim is fortified by the title deeds, as produced, and that the deed produced by the private

respondents is a fraudulent one, the petitioners were erroneously directed to approach the civil forum. The learned Tribunal also erroneously refused to exercise jurisdiction and to issue necessary direction towards correction of the record of rights in favour of the petitioners when the title of the petitioners had never been disputed.

She further submits that in support of the assertion that the private respondents herein are in possession and are the absolute owners of the subject land, reliance was placed upon a deed no. 3318 dated 14th November, 1983. However, on the basis of the report of the A.D.S.R., Usthi, it was found that the name of the vendor and the schedule of land are completely different from the land involved in the present case.

She submits that the respondents also placed reliance upon a deed dated 1st October, 1983 which was refused to be registered by the competent authority. Challenging the said order of refusal, the private respondents approached the Appellate Authority, however, the said authority also declined to register the deed. In the said conspectus, as there is no dispute or challenge against the title of the petitioners, the learned Tribunal ought to have issued necessary direction upon the respondent no. 3 to record the names of the petitioners in the subject land instead of relegating the issue to the civil forum.

Such contention of Ms. Chakraborty has, however, been denied and disputed by Mr. Ghosh, learned advocate appearing for the private respondents and he strenuously argues that the deed in favour of the respondents was executed on 1st October, 1983 and the same was registered on 14th November, 1983. Their names were rightly incorporated in the record of rights at the attestation stage upon arriving at a finding that they are in possession of the land and that such record was also finally published.

In reply, Ms. Chakraborty submits that purported recording of the names of persons at the attestation stage does not confer any right and cannot be construed to be sacrosanct.

Mr. Galib, learned advocate enters appearance on behalf of the State respondents and submits that as there is a dispute pertaining to the title of the parties, the matter has been rightly relegated to the civil forum.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Mutation entry does not confer any right, title and interest and such entry in the revenue records is only for the fiscal purpose. The Courts are authorized to draw a particular inference from a particular fact unless and until the truth of such inference is disapproved by other facts. It is well settled that a presumption is not in itself

evidence, but only makes a *prima facie* case for a party for whose benefit it exists and such presumption is rebuttable.

In the present case, the title of the petitioners in the subject land had neither been challenged not disputed. The private respondents have miserably failed to establish any semblance of title upon the subject land and have also not challenged the finding of the Appellate Authority that the '*the instrument vide which the subject land is recorded in favour of the respondents is a fraudulent one*'.

The learned Tribunal erred in law in doubting the credibility of the deeds existing in favour of the petitioners, disregarding the failure on the part of the private respondents to establish their ownership pertaining to the subject land.

In the said conspectus, the Appellate Authority and the learned Tribunal, in our opinion, erred in law in directing the petitioners to approach the civil forum. Such directions are thus not sustainable in law and are accordingly set aside along with the order dated 16th September, 2013 passed by the respondent no. 3.

The said respondent no. 3 is directed to consider the petitioners' application for correction of record of rights afresh on the basis of the title deeds produced by the petitioners, upon granting an opportunity of hearing to all the interested parties and in the light of the

observations made in this order and to communicate the decision to the petitioners.

The above exercise shall be completed within a period of 8 (eight) weeks from date.

With the above observations and directions, the writ petition is disposed of.

There shall, however, be no order as to costs.

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

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)