

D/L.4.
March 13, 2024.
MNS.

WPA No. 15975 of 2023

Baidyanath Saha and another
Vs.
The State of West Bengal and others

Mr. Srikanta Datta,
Mr. Prodyot Kumar Ray

... for the petitioners.

Mr. N. C. Bihani,
Mrs. Papiya Banerjee Bihani

...for the State.

Mr. Raja Saha,
Mr. Sanjoy Mukherjee

...for the respondent no. 5.

1. Learned counsel for the petitioners submits that the respondent authorities have deliberately not given a certified copy and other information regarding a particular deed, which affects the rights of the petitioners.
2. Learned counsel also places reliance on a document annexed to the writ petition at page 19, which is a purported certified copy of a different deed between other persons, which was executed in the year 2017. It is contended that the deed regarding which information sought was also executed in the same year.
3. However, the respondent authorities are taking a defence that the relevant documents

and the records of the said year are lost. It is argued that in view of the issuance of the certified copy of the other deed of the same year, the defence raised by the respondents cannot be credible.

4. Learned counsel appearing for the respondent no. 3 files a report in terms of the previous direction of this court.
5. It transpires from the said report that on September 4, 2018, a General Diary Entry was lodged by the respondent authorities, where it was informed that volume 52 for the year 1958 and volume 28 for the year 1987 of DSR-I, Murshidabad are found missing from the district record room at Berhampore, Murshidabad and the record of all deeds contained in those volumes is also found lost with the missing of the volumes. It was further stated in the complaint that two volumes of DSR-I have not been found out after having all-out search in the very large record room. Previously a general diary dated November 23, 2017 was also lodged for the loss of the two particular deeds.
6. Thus, it transpires that much prior to the filing of the writ petition, a General Diary was actually lodged by the respondents indicating that the volumes-in-question were missing.

7. The certified copy of the document which has been relied on by the petitioners and a copy whereof has been annexed to the writ petition was also of the year 2017. However, it is not clear as to when the said certified copy was issued. As per the General Diary entry annexed to the report filed today, the first General Diary was lodged by the respondents on November 23, 2017 and the second on September 4, 2018.
8. In the absence of any clear evidence as to the other certified copy having been issued after November 23, 2017, the court cannot come to the conclusion that the respondent authorities are deliberately suppressing the deed and information sought by the petitioners.
9. However, Index 2 of the relevant volume, which could be traced out in the said office of the respondent authorities, has been annexed to the report filed today.
10. Thus, the court cannot go further in directing the respondents to produce the documents and information sought by the petitioners, for the simple reason that the said documents were lost and a complaint in that regard was filed with the police authorities.
11. In the event if the petitioners so desire, it will be open to the petitioners to pursue the fate of

the said diary, since the diary number has already been given to the petitioners and if the petitioners so feel, lodge an independent complaint against the authorities regarding the documents.

12. However, there is no scope of issuing any writ in connection with the present writ petition.

13. Accordingly, WPA No. 15975 of 2023 is disposed of by keeping the report filed today on record and in the light of the above observations.

14. Since the petitioners had filed a second appeal under the Right to Information Act, 2005 on the self-same cause of action, by virtue of this order, the said appeal is also rendered infructuous and the second appellate authority is free to proceed to pass appropriate orders in that regard.

15. There will be no order as to costs.

16. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)