

D/L. 13.
February 8, 2024.
MNS.

WPA No. 16005 of 2023

Abu Hossain Sk.
Vs.
The State of West Bengal and others

Mr. Partha Pratim Roy,
Mr. Sarbananda Sanyal

... for the petitioner.

Mr. Wasim Ahmed,
Sk. Md. Masud

...for the State.

Mr. Shamit Sanyal,
Ms. Priyakshi Banerjee

...for the respondent nos. 5 and 6.

1. Learned counsel for the petitioner contends that by the impugned memo, a purported deed in favour of the private respondent has been sought to be reconstructed by the Registering Authorities.
2. It is argued that the petitioner claims title in the said property, as opposed to the private respondent, and a litigation is pending in that regard.
3. It is argued that there is no provision under the Registration Act, 1908 for reconstruction of documents. It is further contended that admittedly, as elicited from an enquiry of the petitioner under the Right to Information Act,

2005 annexed at page 23 of the writ petition, the original deed was seized by police authorities. As such, it is argued that the custody of the said seized document, which is apparently forged, which was seized by the police, ought to be with the police and the Registering Authorities have no jurisdiction to “reconstruct” the same.

4. Learned counsel appearing for the private respondent submits that the direction to reconstruct was pursuant to several directions of similar nature issued by the trial court.
5. It is argued that the petitioner does not have any *locus standi* to oppose the same.
6. In the present case, certain germane and valid questions have been raised by the petitioner. The first such question is as to whether the Registering Authorities have any power under the Registration Act, 1908 or otherwise to reconstruct documents presented to them for registration.
7. Secondly, if the document is supposed to be lying with the police authorities, whether the same can be reconstructed by the Registering Authorities in the absence of any positive proof that the same was lost or misplaced by the Police Authorities.

8. Thirdly, the veracity or evidentiary value of the said document is also under question.

9. However, these are debatable issues which can only be raised by the petitioner in the suit pending between the petitioner and the private respondent at the juncture and if the purportedly reconstructed deed is tendered in evidence in such suit or relied on by the private respondent in any manner whatsoever. Unless such document is produced in any such litigation or relied on by the private respondent to assert any right specifically against the petitioner, the petitioner does not have *locus standi* at this stage to challenge the said purported reconstruction.

10. In such view of the matter, WPA No. 16005 of 2023 is disposed of by granting liberty to the petitioner to raise all objections, to the probative value of the purportedly reconstructed deed, if ultimately reconstructed, on all counts including the questions indicated above, at the juncture when the purportedly reconstructed deed is tendered in evidence or otherwise relied on by the private respondent to assert the private respondent's right, title and interest as against the petitioner in the pending suit between the

parties at any stage of the suit or before any other forum.

11. It is made clear that such issues are not being decided on merits by this Court since such adjudication would be premature and may affect the adjudication of the pending suit.

12. There will be no order as to costs.

13. 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.)