

D/L. 29.
February 16, 2024.
MNS.

WPA No. 22173 of 2023

Sri Laxmi Kanta Koley
Vs.
Union of India and others

Mr. Gautam Banerjee,
Ms. Priya Dey

... for the petitioner.

Mr. S. N. Biswas

...for the private respondent no. 5.

1. The conspectus of the present writ petition is short.
2. The main contesting party is present before court through counsel and, as such, the writ petition is taken up for hearing.
3. The petitioner contends that the petitioner is a grandson of the private respondent. The private respondent took out a proceeding under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (2007 Act) before the concerned Sub-Divisional Magistrate, where the said application was dismissed. A challenge was preferred against the same, in which the District Magistrate, Hooghly, passed the impugned order dated May 11, 2022, whereby the gift deeds of the

petitioner and the sons of the private respondent were declared void.

4. It is argued that the petitioner was never a party to the proceedings. In fact, the petitioner made a representation before the District Magistrate seeking such impleadment, which was never acted upon by the District Magistrate.
5. That apart, the order is devoid of reason.
6. Learned counsel appearing for the private respondent submits that the private respondent is 82 years old and was deprived of his residential right, for which the challenge was preferred before the appropriate authorities.
7. A bare perusal of the impugned order shows that the same is utterly devoid of a single line of reasoning. However, since the other award-debtors are not before this Court, insofar as the gift deeds executed in favour of them are concerned, it would be beyond the scope of the writ petition to decide.
8. Insofar as the present petitioner is concerned, he, being a grandson of the private respondent and, is not obligated to bear the maintenance of the private respondent in law, since a grandfather is not a dependent.

9. That apart, the petitioner was never even impleaded in the proceeding.

10. Hence, the order of the District Magistrate, insofar as the same pertains to declaring the petitioner's gift deed as void, is palpably without jurisdiction and has to be set aside.

11. In such view of the matter, WPA No. 22173 of 2023 is partially allowed on contest, thereby setting aside the portion of the order dated May 11, 2022 passed by the District Magistrate, Hooghly in Case No. 01/MW/2022 insofar as the same sets aside and cancels the gift deed bearing no. 3574 dated July 5, 2016 executed by the private respondent in favour of the present petitioner.

12. It is made clear that nothing in this order shall prejudice the rights of the other award-debtors to prefer any challenge to the said order, if they so feel necessary and are otherwise entitled in law.

13. In the event any action has been taken by any authority pursuant to the impugned order insofar as gift deed no. 3574 dated July 5, 2016 is concerned, such action shall automatically be deemed to be hereby reversed.

14. There will be no order as to costs.

15. 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.)