

15.04.2024
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PG/KS
Ct. No.1

M.A.T. 1831 of 2023
With
IA No. CAN 1 of 2023
+
CAN 2 of 2023
Annapurna Barai
Versus
Sudhangshu Shekhar & Ors.

Mr. Rabindra Narayan Dutta
Mr. Shibashish Ghosh
Mr. Hare Krishna Haldar
Mr. Ardhendu Nag
Mr. Arkaday Mukherjee
Mr. Soham Banerjee
.....for the appellant

Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
.....for the State

Mr. Mrinal Kanti Ghosh
Mr. Jayanta Dey
.....for the private respondent

1. The order dated 29th June, 2017 in W.P. 16802 (W) of 2017 is under challenge at the instance of a third party. The appellant has filed an application praying for leave to prefer an appeal being, CAN 2 of 2023 along with an application for condonation of delay being, IA No.CAN 1 of 2023.
2. After hearing the learned counsel for the parties and considering the averments made in the applications being, IA No.CAN 1 of 2023 and CAN 2 of 2023, this Court is of the considered view that the appellant has a right to prefer this appeal, as according to the

appellant, certain observations made in the impugned order, shall affect her right in a pending civil suit.

3. For such reason, IA No.CAN 1 of 2023 and CAN 2 of 2023 stand allowed.
4. The allegation is that the deed was presented for registration with forged stamp papers. A criminal proceeding in respect of such forgery is also pending. The learned Single Judge after taking note of pendency of the criminal proceedings observed that under such circumstances, the writ petitioners being the respondent nos.1 to 5 herein are not entitled to get back the original deed. However, the learned Single Judge directed the registration authorities to provide the certified copy of the deed to the writ petitioners subject to certain conditions as stipulated in the said order.
5. The learned advocate appearing for the appellant would contend that the appellant herein has instituted a suit being, Title Suit No.26 of 2018 praying for declaration of title with a further declaration that the deed is void *ab initio* and for permanent injunction.
6. The learned advocate appearing for the appellant submits that the writ petitioners may use the certified copy for various purposes and the same would affect the appellant's rights in the civil suit.
7. Considering the fact that the deed in question is in the custody of the investigating authorities, this Court is of

the considered view that the learned Single Judge was justified in directing issuance of the certified copy, as it is yet to be concluded that the deed was presented with forged stamp papers.

8. This Court, however, observes that furnishing such certified copy shall not affect the rights of the private parties either before the learned Trial Judge in T.S. 26 of 2018 or before any other forum, where proceedings in connection with the deed is pending or may be initiated and the appellant will be at liberty to raise all points with regard to the genuineness or otherwise of the deed in question in the pending civil suit.
9. With the above observations, the appeal stands disposed of.
10. No costs.
11. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)