

44 04.01.2024
NB Ct. 14

WPA 24479 of 2023

Bireswar Deb & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Kamalesh Jha,
Ms. Srabani Biswas.
...for the petitioners.

Mr. Ansar Mandal Id. AGP,
Mr. Asish Dutta.
....for the State.

Mr. Bidhut Kr. Halder,
Mr. Indranil Halder,
Ms. Neha Singh.
...for the private respondent no.4.

Affidavit of service filed on behalf of the petitioners is taken on record.

Report filed on behalf of the State is also taken on record.

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioners are the parents of the private respondent. In 2016, the private respondent asked the petitioner no.1 to execute a Power of Attorney in his favour to look after the property issues. Fraudulently, the petitioner no.1 was made to execute a Deed of Gift instead favouring the private respondent. The petitioner no.1 filed a suit challenging the Deed of Gift. However, the private respondent, thereafter, compelled the petitioner no.1 to withdraw the said suit even without taking no objection from the advocate on record. A prayer was thereafter made to not press the said withdrawal, but the same was refused. The matter is now pending before

the High Court. The younger son of the petitioners who stays in Canada is to get married. The petitioners need to enter into the house for such purpose. The private respondent is preventing them from doing so. A proceeding has been initiated by the petitioners under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

Learned counsel appearing on behalf of the private respondent submits as follows. The allegations made in the writ petition are denied. The Deed of Gift was executed by the petitioner no.1. Now the petitioner no.2 is creating all sorts of problems at the behest of her three married daughters. In fact, the private respondent was earlier constrained to move a writ petition in this regard.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. There exists a civil dispute between the private parties. A proceeding has been initiated under Section 144 of the Code of Criminal Procedure. As no cognizable case is made out on the complaint of the petitioners, no FIR could be registered.

It appears that a civil dispute exists between the private parties. If any of the parties wants to establish any further right in respect of the property, the same has to be done before a civil Court.

It also appears that the petitioners have already taken steps under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The proceeding therein be expedited.

As the challenge to the Deed of Gift is pending, no further order need be passed in this regard.

However, the police authorities shall keep a sharp vigil at the locale, ensure that no breach of peace takes place and see to it that no order of a civil Court is violated.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)