

19.06.2024
Sl. No.28(DL)
srm

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

W.P.A. No. 1172 of 2024

Sri Surendra Sah

Versus

The State of West Bengal & Ors.

Ms. Suman Sehanabis (Mondal),
Mr. Salok Sah,
Ms. Anwesha Chakraborty

...for the Petitioner.

Mr. Pretom Das,
Mr. Sandip Guha Ray

...for the State-respondents.

Mr. Debarshi Dhar

...for the Siliguri Municipal Corporation.

1. Affidavit-of-service is taken on record.
2. The respondent No.4 is not represented. However, this Court is not inclined to keep the matter pending as no mandatory directions are passed which would be adverse to the interest of the respondent No.4.
3. The petitioner submits that the Siliguri Municipal Corporation has failed to take steps, despite the petitioner's representation with regard to the incorrect insertion of the name of the respondent No.4 in respect of

the holding No.866/1, Ward No.45, Police Station-Pradhan Nagar.

4. Records reveal that the petitioner has alleged that the respondent No.4 used certain forged and fabricated documents to establish his possessory rights over the grocery shop in question.
5. It also appears that the certificate of enlistment was given to the petitioner as well the respondent No.4 in respect of the shop.
6. According to the petitioner, the mother, who was the original owner had allowed the petitioner to run his business from the said shop, but the respondent No.4 created some forged documents and got his name mutated.
7. A criminal investigation is going on. Thus, until the criminal investigation is concluded and the documents created by the respondent No.4 are found to be forged, the Corporation cannot be directed to delete the name of the respondent No.4. Moreover, the right, title and interest of the sons' of the original owner of the property cannot be decided by the Corporation. The contention of the petitioner that the property was purchased in his

mother's name by him, is also incorrect in view of the provision of Benami Transactions (Prohibition) Act, 1988.

8. Under such circumstances, no mandatory orders can be passed. However, the competent authority of the Corporation will inform the petitioner under what circumstances, the name of the respondent No.4 had been entered in the Corporation's records against Holding No.866/1. Such intimation shall be given to the petitioner within a period of four weeks from date. The Corporation will also consider upon hearing all the parties whether the names of both the petitioner and the respondent No.4 should have been entered in respect of the said holding, in the Corporation's records.
9. The writ petition is, thus, disposed of.
10. There shall be no order as to costs.
11. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)