

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

62 23.4.2024

MAT 73 of 2023

Ct-01

**Sri Subir Choudhury
Vs.
The State of West Bengal & Ors.**

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Ms. Amritam Mondal
... For the Appellant

Mr. Hillol Saha Podder
... For the Respondent no. 6

1. We have heard the learned counsel appearing for the parties.
2. Prima facie, we find that the pre-condition for cancellation of a gift deed under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act 2007 is not fulfilled and the appellant has made a strong prima facie case for obtaining a stay of operation of the order. In view thereof, we dispose of this appeal by directing the appellant not to alienate, encumber and/or transfer of the property in question till the disposal of the writ petition by the learned Single Judge. The order dated 29th December, 2007 shall remain stayed till the disposal of the writ petition. However, we make it clear that the learned Single Judge shall not be influenced by the observation made in this order at the time of disposal of the writ petition finally.

3. Since no affidavit is called for, the allegations are deemed to have been denied.
4. In view thereof, the appeal stands disposed of.
5. There will be no order as to costs.

(Soumen Sen, J.)

(Partha Sarathi Sen, J.)