

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

17 09.09.2024
kc Ct. no.2

WPA 1861 OF 2024

SUSANTA DUTTA AND ANR.

Vs.

STATE OF WEST BENGAL AND ORS.

Mr. Sudip Guha, Adv.
Mr. Sandip Guha Roy, Adv.
Mr. Ananda Paul, Adv.
....For the Petitioners

Mr. Subir Kr. Saha, Ld. AGP
Mr. Sourab Sarkar, Adv.
....For the State
respondent Nos. 1 to 5.

Mr. Bikramaditya Ghosh, Adv.
....for respondent no.6

The writ petitioners claim that, they are the owners of a particular plot of land whereupon the respondent No. 6, a **local club** has been performing Durga Puja and other rituals in every year. A Civil Suit has also been filed by respondent No. 6 being **Title Suit No. 493 of 2022**, which is pending before the learned Civil Judge (Junior Division), 2nd Court, Jalpaiguri with the following prayers:

a) A Decree declaring that the plaintiff Society is the absolute owner with absolute right, lawful interest and possession over the suit land described in the suit property described in the schedule hereunder;

b) A Decree declaring that the Deed vide deed no.I-2690 dated 08.08.2022, Deed no.I-2737 dated 12.08.2022 and deed no.I-2688 dated 08.08.2022 as executed by the defendant no.5 on behalf of the defendant no.6 & 7 in favour of the defendant no. 1 to 4 with the help of defendant no.10 are illegal, bad in law and not binding upon the plaintiff;

c) A Decree for perpetual Injunction restraining the defendants their men, agents, servants, assignees, collaborators or any one claiming through them from entering into and/or from creating of any disturbances or annoyance or mischief over the suit land described in the schedule hereunder in any manner whatsoever and/or restraining the defendant no.1 to 5 to transfer any portion of the land as mentioned in the I-2690 dated 08.08.2022, Deed no.I-2737 dated 12.08.2022 and deed no. I-2688 dated 08.08.2022 as executed by the defendant no.5 on behalf of the defendant no.6 & 7 in favour of the defendant no. 1 to 4 with the help of defendant no.10 in any manner;

d) A Decree declaring that the power of Attorney executed by the defendant no. 6 & 7 vide no. 4163 dated 19.07.02022 in favour of the defendant no.5 in respect of the suit land is illegal, bad in Law and liable to be cancelled and not binding upon the plaintiff;

e) Cost of the Suit;

f) Any other relief or reliefs to which the plaintiff to be entitled in the eye of Law, Justice, equity and good conscience.

A copy of the plaint has been produced before this Court by Mr. Bikramaditya Ghosh, learned counsel appearing for respondent No. 6, the same is taken on record.

From the copy of the plaint it appears a possession dispute has been pleaded by the plaintiff. Orders were passed from time to time by the jurisdictional Civil Court in the said Title Suit including the last order dated **October 7, 2023** passed by the jurisdictional Civil Court allowing the said **local club** to perform puja from the subject suit land.

Mr. Sudip Guha, learned counsel appearing for the petitioners, submits that by setting up and filing the said Title Suit, the respondent no.6 intends to grab the property of the petitioners.

After considering the rival contentions of the parties and upon perusal of the materials on record, it appears to this Court that, this is a civil dispute and the parties may seek their redressal of grievance in the said pending Title Suit. The disputes canvassed in this writ petition is already covered and can be agitated before the said pending Title Suit.

However, the learned jurisdictional Civil Judge while granting permission for performing puja by the respondent no.6 from the said piece of land shall impose stringent conditions which are required to be complied with by the respondent no.6 in accordance with law.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

It is made clear that this Court has not gone into the merits of the rival contentions of the parties and the parties shall be at liberty to urge whatever points they wish to urge by relying upon whatever documents and material they wish to rely upon in the pending Civil Suit. The Civil Court while trying the suit shall not be influenced by observation, if any, made by this Court.

With the above observations and directions, this writ petition **WPA 1861 of 2024** stands disposed of.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)