

24.03.2025
Item No.9
gd/ssd

MAT/256/2025
NUR MOHAMMAD MALLICK AND ORS.
VS
NUR ISLAM MALLICK @ IRAN AND ORS.
IA NO: CAN/1/2025, CAN/2/2025

Mr. Subhendu Roychoudhury.
Ms. Shila Chatterjee
..for the Appellants.

Mr. K.J. Yusuf,
Mr. Sourav Chaudhuri
..for the State.

Re: CAN 2 of 2025

1. In this application one of the prayers is to grant leave to the appellants to prefer an appeal against the order dated 24th January, 2025 in WPA 12240 of 2024.

2. Since the direction issued though appears to be an innocuous direction has affected the rights of the appellants and the appellants being not a party to the writ petition is justified for seeking leave to file this appeal, accordingly, leave is granted to the appellants to file this appeal.

3. In view thereof, this application being CAN 2 of 2025 is allowed.

Re: MAT 256 of 2025

4. The said writ petition was filed by the appellants' brother who was implicated in a murder case registered by the Pachla Police Station Case No.383 of 2022 dated 14.11.2022.

5. The petitioner approached the learned writ court alleging that after the writ petitioner was released on bail, he went to his residence but he was unable to enter the residence and he was shocked that none of his articles were available.

6. Alleging police inaction, the writ petition was filed which has been disposed of by the impugned order with certain observations and directions to the police. The property in question has been transferred in the name of the appellants pursuant to a deed of gift which is a registered document stated to be executed by the mother of the appellants. The writ petitioner alleges that during his absence the mother of the appellants has excluded the writ petitioner and transferred the property in favour of the appellants despite the fact that the entire construction has been put up at the cost of the writ petitioner.

7. The learned advocate for the appellants submitted that pursuant to the agreement of gift, the revenue records have been mutated and the names of the appellants have been shown to be the registered owners.

8. The facts clearly show that the matter is completely civil in nature and the police authorities will not be able to decide the question of title.

9. Therefore, the directions issued by the learned Single Bench require to be set aside and accordingly, the appeal is allowed and the impugned order is set aside leaving it open to the appellants as well as the private respondent/writ petitioner to approach the civil court for necessary relief.

10. In the event any of the parties approach the civil court, the civil court shall decide the matter based on the pleadings or the documentary evidence uninfluenced by any observation made by this court.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)