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WPA No. 8768 of 2022

Sri Hara Ram Patra & Ors.

Vs.

Rhe State of West Bengal & Ors.

Mr. Amit Bikram Mahata

.....for the petitioners

Mr. Rajarshi Basu, Sr. Adv.

Mr. Tarak Karan

..... for the State

The present writ petition has been filed alleging inaction on the part of the concerned respondents in considering the petitioners' representation dated 16th January, 2017, seeking return of a deed of sale.

Briefly stated, the facts leading to the filing of this writ petition are that the petitioners presented a deed of sale for effecting transfer of Plot No. 988, measuring 0.19 decimals out of 55 decimals in Khatian No. 232/1 of Mouza-Kasipur, Police Station-Sutahata, District-Purba Medinipore, before the District Sub-Registrar on 23rd November, 1991.

Mr. Mahata, learned Advocate appearing for the petitioners, submits that on the very date of presentation of the deed, all processes relating to its registration were duly completed and even the IGR was handed over to the petitioner. However, subsequently, on the allegation that the stamp papers submitted along with the deed were forged, the Additional District Sub-Registrar declined to return the deed.

He further submits that the petitioners are willing to pay an amount equivalent to the aggregate value of the stamp papers used for the purpose of registration. Accordingly, he prays for a direction upon the concerned respondents to return the deed to the petitioners upon acceptance of such amount. He further contends that, on similar occasions, this Court directed the authorities to supply certified copies of the deed upon acceptance of the aggregate value of the stamp papers. In support of his contention, he places reliance on an unreported decision of a Co-ordinate Bench of this Court in WP 14975(W) of 2018.

Mr. Basu, learned Senior Advocate appearing for the State, submits that if a direction is issued to the concerned respondents to hand over the certified copy of the deed upon acceptance of an amount equivalent to the aggregate value of the stamp papers, the State shall not stand in the way

Heard the learned Advocates representing the respective parties and perused the materials on record.

As submitted, the deed was presented and/or registered on 23rd November, 1991 and IGR was also issued to the petitioner; however, the original deed had not been returned to the petitioner on the allegation that that the stamp papers presented by the petitioners along with the deed were forged.

In response to my query, Mr. Mahata submits that no criminal proceedings have been initiated against the petitioners. However, he is unable to inform the Court whether any case has been initiated against the stamp vendor from whom the petitioners purchased the stamp papers.

The decision relied upon by the petitioners was rendered based on the earlier decision of a Hon'ble Division Bench of this Court in FMA 200 of 2010. In that intra-court appeal, the Hon'ble Division Bench directed the concerned respondents to supply or deliver the certified copy of the deed upon acceptance of an amount equivalent to the aggregate value of the stamp papers used for the purpose of registration.

Accordingly, in view of the decision rendered in the intra-court appeal FMA 200 of 2010, the writ petition is disposed of with a direction to Respondent No. 6 to supply or deliver the certified copy of the deed upon acceptance of an amount equivalent to the aggregate value of the stamp papers submitted by the petitioners for the purpose of registration. If an enquiry is undertaken to ascertain whether the stamp papers are forged, the amount shall be kept deposited with the registering authority until the conclusion of such enquiry. If, upon enquiry, it is found that the stamp papers are forged, the amount deposited by the petitioners shall be handed over to the appropriate authority.

Needless to state, if it is found that the stamp papers are genuine, the amount deposited by the petitioners shall be returned to them

The certified copy of the deed shall be handed over upon completion of all necessary formalities within a period of six weeks from the date of deposition of the amount by the petitioners.

With these observations and order, this writ petition is, thus, disposed of. There shall be no order as to costs.

As the writ petition has been disposed of without calling any affidavit from the concerned respondents, the averments, made in the writ petition, shall be deemed not to have been admitted by the respondents.

(Partha Sarathi Chatterjee, J.)