

11.12.2025
rc/ct.no.05
Item No.25

WPA No. 17860 of 2025
with
CAN No. 1 of 2025
Shyamal Kumar Naskar
Versus
The State of West Bengal & Ors.

Mr. Shyama Prasad Purkait
Ms. Moumita Mandal
Mr. Dinesh Mondal ..for the Petitioner

Mr. Vivekananda Bose
Mr. Kallol Kumar Maityfor the State

Mr. Manik Lal Poddar
....for the respondents no. 5,6&7

Affidavit of service and supplementary affidavit filed
by the petitioner are taken on record.

Since CAN No. 1 of 2025 has not been traced out in
the file, learned counsel for the applicant/petitioner
produces a photocopy of the application, which is treated
as the original copy of the application till the original copy
of the application is traced out. Let the said photocopy of
the application be taken on record.

Learned counsel for the petitioner submits that the
property in question originally belongs to the mother of the
petitioner who expired leaving behind the petitioner and
his father. Subsequently his father transferred his share of
the property to him by virtue of a deed of gift, the
petitioner thereby becoming the absolute owner of the
property. The petitioner alleges that the 5th respondent was

trying to transfer/alienate the property in favour of others for which a civil suit was filed. By an order passed on February 02, 2017, the learned trial Court granted an order of exparte adinterim injunction in favour of the petitioner restraining the 5th respondent from bequeathing, alienating or transferring the property in favour of any third party in any manner and from cutting down trees and disturbing the peaceful possession of the petitioner therein. The said order was not complied with by the 5th respondent for which the petitioner filed an application under Section 151 of the Code of Civil Procedure seeking police help. The said petition was also allowed by the learned trial Court directing the Officer in Charge, Bishnupur Police Station to ensure compliance of the interim order. The petitioner submits that the police has still not taken steps for implementation of the said order. The petitioner filed another suit against the 6th and 7th respondents wherein an order of status quo in respect of the nature, character and possession of the property was directed upon both the parties.

Learned counsel for the private respondents submits that the deed of gift executed by the 5th respondent was declared void in terms of Section 23(2) of The Welfare and Maintenance of Parents and Senior Citizens Act, 2007 by an order passed on April 16, 2018 by the Sub-Divisional Officer and the Tribunal Officer, Maintenance, Tribunal South 24-Parganas, Alipore. Learned counsel also submits

that the 5th respondent has filed an application before the learned Civil Court under Order XXXIX Rule 4 of the Code of Civil Procedure which is pending.

Learned counsel for the State submits that the orders passed by the Civil Court have not been communicated to the police by the petitioner. The police authority has taken necessary steps independently.

Upon consideration of the submission made on behalf of the parties, this Court is inclined to hold that since an order of ad interim injunction has been granted by the learned Civil Court, the petitioner is at liberty to approach the said forum in the event of violation of the same.

It is expected that the parties shall abide by the order of the learned Civil Court till the application filed under Order XXXIX Rule 4 of the Code of Civil Procedure is dealt with by the learned trial Court and the order of ad interim injunction vacated.

With the above observation and direction this writ petition is disposed of.

The connection application being CAN No. 1 of 2025 is accordingly disposed of.

There shall, however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the writ petition are deemed not to have been admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh,J)