

S/L 3
07.11.2025
Court. No. 25
sourav

WPA 24473 of 2025

**Sonatan Dutta & Ors.
Vs.
The State of West Bengal & Ors.**

*Mr. Prosenjit Mukherjee
Mr. Nirmalya Kr. Das
Mr. Jahangir Hossain
Ms. Babita Pramanik*

...for the petitioners.

*Mr. Sirsanya Bandopadhyay, Sr. S. C.
Mr. Tirthankar Dey*

...for the State.

*Mr. Ankit Agarwala
Mr. Alatriya Mukherjee
Ms. Arpita Paul Biswas
Mr. Pappu Adhikary*

...for the respondent no. 9.

1. The petitioner has filed the present writ application challenging the order passed by the Presiding Officer, Maintenance Tribunal, Rampurhat Sub-Division and the Sub-Divisional Officer, Rampurhat, Birbhum dated 09.10.2025 wherein the deeds vide nos. 8121 of 2014 dated 19.09.2014 and 255 of 2014 dated 14.11.2014 of the office of the ADSR, Rampurhat are declared as void and cancelled and consequential orders have been passed.
2. The first contention raised by the petitioners in the present application is that the concerned authority has initiated the case on the complaint of the private respondents under Section 5 read with Section 6 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and had passed the impugned order against the petitioner nos. 2 and 3 but they are not the

relatives of the private respondents and thus, the proceeding initiated by the Presiding Officer is bad in law.

3. The second contention raised by the petitioners is that the proceeding was initiated against a dead person. Even after the enquiry, the enquiry officer came to know that two of the persons namely, Asish Dutta and Suvasish Dutta are in possession of the property in question and a notice was issued but no hearing was conducted and the report has not been served upon the petitioners so as to enable the petitioners to response to the said report.
4. It is the further contention of the petitioners that there are three brothers of the deceased donee, namely, Debasish Dutta but only two persons have been issued notice and the third person has not been issued notice and he was not aware of the proceeding initiated by the concerned authority. The learned counsel for the petitioners further submits that the order dated October 9, 2025 passed by the Presiding Officer is the replica of the enquiry report and he has not applied his independent mind and has not given any opportunity of hearing to the petitioners.
5. The learned counsel for the private respondents raised the question of maintainability of the present writ application and submits that as per Section 16 of the said Act, there is a provision of appeal but the petitioners instead of filing an appeal against the

impugned order has filed the present writ application and thus the writ petition is not maintainable.

6. The private respondent has relied upon the judgment in the case of ***Paramjit Kumar Saroya Vs. The Union of India & Anr.*** reported in ***2014 SCC Online P&H 10864*** and submits that in the said case, the Hon'ble Division Bench of the Punjab and Haryana High Court has held that even if he is not a senior citizen or not a relative, can maintain the appeal under Section 16 of the said Act.
7. The learned counsel for the private respondent further submits that after the enquiry, the enquiry officer came to know that after the death of Debasish Dutta, the two persons are in occupation of the premises in question and accordingly, the notices have been issued to the said two persons i.e., the petitioner nos. 2 and 3. As regard to the third person, nobody has disclosed the identity of the third person i.e., the petitioner no. 1 and as such no notice has been issued to the petitioner no. 1.
8. He further submits that though in the cause title of the order, the concerned authority has initiated the proceeding under Section 5 read with Section 6 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 but in the application filed by the private respondents before the concerned authority, there is a specific prayer for declaring the deed of gift as void which is duly covered under Section 23 of the Act.

9. The learned counsel appearing for the State submits that on receipt of the complaint from the private respondent, enquiry was conducted and upon enquiry it was found that though the deed was executed with the condition that the donees will look after the old age person who is the private respondent herein but subsequently, the donees failed to look after the senior citizen and accordingly, the authority has found that the complaint made by the private respondent is correct and passed the impugned order and does not require any interference.
10. Heard the learned counsel for the parties. Perused the materials on record.
11. This Court finds that the private respondent has made a complaint to the Sub-Divisional Officer, Rampurhat in the month of September, 2025. Immediately, on the receipt of the complaint, a report has been called for by the Sub-Divisional Officer and on receipt of the report, it is found that the one of the donee, namely, Debasish Dutta died and two persons are in occupation of the premises in question and accordingly, the Sub-Divisional Officer, Rampurhat has issued a notice by fixing a date on September 25, 2025 but this Court finds that on September 25, 2025 no proceeding was held but finally, the Sub-Divisional Officer has passed the impugned order on October 9, 2025.
12. This Court finds that the Sub-Divisional Officer has relied upon the enquiry report, on the basis of which

the impugned order is passed but the report was not supplied to the petitioners and no opportunity was given to the petitioners so that the petitioners could not deal with the report on the basis of which the impugned order is passed. This Court also finds that the copy of complaint of private respondent was not served to the petitioners.

13. Considering the above, this Court finds that while passing the impugned order, the authorities have violated the principle of natural justice by not supplying the copy of the report and copy of complaint to the petitioners and the petitioners have not get an opportunity to deal with the allegation of the complaint and the report on the basis of which the impugned order is passed. As regard the question raised by the petitioners that the proceeding is initiated under Sections 4 and 5 of the Act but the officer has passed the order for declaring the deed as void, this Court finds that though in the cause title has been recorded that the proceeding under Sections 5 and 6 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 but the application filed by the private respondent, there is the specific prayer for declaring the deed as void. This Court finds that the submission made by the petitioners does not stand. The authority has to go by the complaint filed by the complainant and the authority has considered the

complaint filed by the private respondent and passed the impugned order.

14. This Court has not gone into the further detail of the matter. This Court finds that the petitioners could not get an opportunity of hearing to deal with the report on the basis of which the impugned order is passed. Accordingly, the order dated October 9, 2025 is set aside and remanded the matter back to the respondent no. 7 to consider the case afresh after giving an opportunity of hearing to all the affecting parties. As the petitioners have got the copy of the report, the petitioners are directed to file the exception, if any, as well as objection to the complaint of the private respondent within two weeks from date before the Sub-Divisional Officer, Rampurhat. If the Sub-Divisional Officer received any exception to the report as well as objection to the complaint filed by the private respondents, the Sub-Divisional Officer after giving an opportunity of hearing to all the concerned parties shall pass a reasoned and speaking order within a period of four weeks thereafter.
15. Till the disposal of the matter by the Sub-Divisional Officer, the parties to the present proceeding are directed to maintain *status quo* with regard to the nature, character and possession. It is found that the Sub-Divisional Officer has received the report that the original donee, Debasish Dutta has died but instead of impleading the legal heirs of Debasish Dutta the Sub-

Divisional Officer has proceeded the matter. Accordingly the petitioners are directed to inform the Sub-Divisional Officer with regard to the legal heirs of Debasish Dutta and if any information is received by the Sub-Divisional Officer within two weeks from date, the Sub-Divisional Officer shall implead the legal heirs of Debasish Dutta in the complaint petition and after giving opportunity of hearing to pass appropriate order as directed above.

16. With the aforementioned directions, the instant writ petition being **WPA 24473 of 2025** is disposed of.
17. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Krishna Rao, J.)