

19.02.2025
Item No.08
RP/SM
Ct. No.01

FMA 111 of 2025
With
IA No.CAN 1 of 2024

Sri Goutam Mukherjee
VS.
Sri Chandan Hazra & Ors.

Mr. Pijush Chaturbedi, Sr. Adv.
Mr. Chittapriya Ghosh
Mr. Dilip Kumar Sadhu
.....For Appellant
Mr. Anirban Ray, Ld. G.P.
Md. Galib, Sr. Adv.
Ms. Munmun Ganguly
....For Respondents

1. This intra-Court appeal filed by the fourth respondent in WPA 27454 of 2022 is directed against the order dated 25th September, 2024 passed in WPA 27454 of 2022. The said writ petition was filed by the first respondent herein, namely, Sri Chandan Hazra, praying for a direction upon the respondent authorities to take steps in terms of the representations dated 16.11.2022 and 28.11.2022; to issue a writ mandamus to direct the respondent authorities, particularly, the District Registrar to take necessary steps to enquire about authenticity of such deed in question and also take steps if it appears that the said deed is not genuine one and further directing them to act in accordance with law.
2. Learned Single Bench disposed of the writ petition by directing the District Registrar to consider the

representations on merits. It was made clear in the impugned order that the writ Court has not gone into the merits of the allegations and counter allegations between the parties. Though the impugned order appears to be an innocuous direction but the core issue to be considered is to whether the District Registrar would be empowered to declare a registered document to be fake or forged. As urged by the appellant such power is not vested with the District Registrar who can only accept a document for registration and examine the said document whether it has been properly or adequately stamped or whether it has been undervalued etc. It has been consistently held that to declare a registered instrument to be a forged document it is the civil Court having jurisdiction to give a declaratory relief to that extent. The learned Single Bench referred to an office order dated 17th January, 2020 issued by the Principal Secretary and Land Reforms Commissioner, Land Reforms and Refugee Relief and Rehabilitation Department. A plain reading of the said office order will show that a criminal proceeding can be initiated once a deed is declared as fake or forge. However, power to declare a registered instrument to be fake or forged is not vested with the District Registrar. Apart from that the appellant, fourth respondent in the writ petition, has filed a civil suit, being TS 413 of 2021 on the file of the learned Civil Judge, Jr. Division, Purba Burdwan

wherein the first respondent/writ petitioner is the sixth defendant. In the said suit the appellant/plaintiff sought for a decree declaring his ownership and possession over the schedule property and a direction for eviction of the defendants from the portion they have illegally occupied. There is a prayer for permanent injunction as well. Therefore, the authority, namely, the District Registrar, has to await the decision of the civil Court especially when the writ petitioner is the defendant in the civil suit and it will be well open to the writ petitioner to canvass in the civil suit as regards genuinity of the transaction with regard to the deed in question. Therefore, the order and direction issued by the learned Single Bench is set aside and the parties, namely, the appellant and the first respondent and other defendants in TS 413 of 2021 shall agitate their respective rights in the pending civil proceeding.

3. It is made clear that this Court has not gone into the merits of the matter and it will be well open to the parties to canvass all points in the pending civil suit.
4. With the aforesaid observation, the appeal and the connected application are disposed of.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)