

07.01.2026
rc/ct.no.05
Item No.22

WPA No. 24918 of 2025
Jagadish Chandra Dey
Versus
The State of West Bengal & Ors.

Mr. Amitabha Ghosh ..for the Petitioner

Mr. Vivekananda Bose
Mrs. Subhra Nag for the State

Affidavit of service filed by the petitioner and report submitted by the State are taken on record.

Learned counsel for the petitioner submits that the petitioner entered into a development agreement with Subir Dutta and subsequently learnt that the said developer had expired after execution of power of attorney. The private respondents are the heirs of the developer. The petitioner approached the private respondents on several occasions seeking execution of a fresh power of attorney which was not heeded to. Alleging cheating and practice of fraud upon the petitioner by the private respondents, the petitioner approached the jurisdictional Magistrate by an application under Section 175(3) of the BNSS. The learned Magistrate has called for a report from the police authority but the police authority has submitted reports on two occasions seeking further time and alleging that the petitioner has not produced the

relevant documents before him despite the fact that all the relevant documents have been produced before the police. The private respondents are trying to alienate the property in favour of third persons for which the petitioner filed a civil suit wherein an order of injunction has been granted by the learned civil Court. Though the petitioner alleges inaction by the police for the reason that the police has not submitted proper report before the jurisdictional Magistrate with regard to the application under Section 175(3) of the BNSS, this Court is of the view that since the learned Magistrate is in seisin of the matter, the petitioner is at liberty to ventilate his grievance before the said learned Magistrate. During pendency of the application before the learned Magistrate, this Court refrains from dealing with the same issue in the present application.

The writ petition is dismissed as premature.

However, the learned Magistrate shall deal with the application pending before him independently in accordance with law without being influenced by dismissal of the present application and any observation which may have been made by this Court in this order.

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)