

State of West Bengal

Vs

Laxmi Churn Law and Others

Civil Appeal No. 3099 of 1981

(M.P. Thakkar, N.D. Ojha JJ)

11.03.1988

ORDER

This appeal does not involve any question of principle or interpretation of any provision of law. Before the High Court the debate centred on the question of fact as to whether or not the donation of Rupees one lakh made in 1966 carried with it an obligation as contended by the respondent (original writ petitioner). The donation was made to a trust known as Calcutta National Medical Institute which was a society registered under the Societies Registration Act. This Institute was taken over by the State Government in 1967 under the Calcutta National Medical College and Hospital Act, 1967 which inter alia provided that all deeds of gift shall be construed as if they were executed in favour of the State Government. One of the questions argued before the High Court was whether the High Court should interfere in exercise of its powers under Article 226 of the Constitution. The High Court relying on observations made by this Court in Babubhai Muljibhai Patel v. Nandlal Khodidas Barot ((1974) 2 SCC 706 : (1975) 2 SCR 71 : AIR 1974 SC 2105) has taken the view that there was justification for entertaining the petition under Section 226 of the respondent. The only other point which was raised before the High Court was as regards the claim of the writ petitioner that there was such an obligation annexed to the gift. Dr. M. N. Sarkar, respondent 4 in the writ petition before the High Court had filed an affidavit and the High Court accepted the statements contained therein as true. On these premises the High Court has issued the direction in the writ petition which has given rise to the appropriate present appeal by special leave. We do not think that we should reassess the evidentiary value of the affidavit filed by Dr. Sarkar who was at the material time holding the post of Secretary and Convenor of the governing body of the Calcutta National Medical Institute to which the initial donation of rupees one lakh was made in 1966. Having regard to the facts and circumstances of the case, we do not consider it necessary to examine the question as to whether or not the High Court should have entertained the writ petition under Article 226 of the Constitution of India elaborately. The appeal, therefore, fails and is dismissed. There will be no order as to costs.

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