

CONSTITUTIONAL WRIT
Present:THE Hon'ble Justice Jayanta Kumar Biswas
Judgement on 26.04.2010
W.P No-- 3135(w) of 2009
Sk. Manjur Islam
Vs
The State of West Bengal & Ors

Points:

Genuineness of document-The genuineness of documents whether can be decided by writ court with the help of handwriting expert's opinion – Constitution of India – Art 226

Facts:

By filing a supplementary opposition the secretary of the institute has disputed the genuineness of the two documents produced by the petitioner with his reply. According to the secretary of the institute the documents have been fabricated. Petitioner contended that the documents are genuine.

HELD-

The court is unable to accept the argument that on the basis of the handwriting expert's opinion this court in exercise of power under art. 226 can adjudicate the question. The opinion of the handwriting expert, even if it is obtained, will not be a conclusive evidence. It will not be possible to decide the question without taking down oral evidence of witnesses. This court is of the view that the parties should be relegated to the appropriate civil and criminal courts. Para--- 3

Mr. Saibal Acharya

Mr. Pradip Paulfor the petitioner

Mr. Ejaj Hossainfor the state

Mr. Soumen Kumar Duttafor the institute

The Court :

By filing a supplementary opposition the secretary of the institute has disputed the genuineness of the two documents produced by the petitioner with his reply. According to the secretary of the institute the

documents have been fabricated. Mr Acharya, counsel for the petitioner, strongly disputes the correctness of the secretary's case stated in the supplementary opposition. He says that the documents produced by the petitioner are genuine.

2. It is, therefore, evident that the case involves a highly disputed question of fact whether the two documents relied on by the petitioner are genuine documents.

3. I am unable to accept the argument that on the basis of the handwriting expert's opinion this court in exercise of power under art.226 can adjudicate the question. The opinion of the handwriting expert, even if it is obtained, will not be a conclusive evidence. It will not be possible to decide the question without taking down oral evidence of witnesses. Under the circumstances, I am of the view that the parties should be relegated to the appropriate civil and criminal courts.

4. For these reasons, I dispose of the petition saying that the parties are at liberty to approach the appropriate civil and criminal courts, and that if they approach the civil and criminal courts, then such courts shall adjudicate the question, the merits of which has not been examined by this court, according to law. No costs. Certified xerox.

(Jayanta Kumar Biswas, J)