

18.11.2020.
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**W.P.A. 7183 of 2020
(C.A.N.1 of 2020)**

(Through Video Conference)

**Hooghly Extrusions Limited & Anr.
Vs.
The State of West Bengal & Ors.**

**Mr. Bhaskar Mukherjee
..for the petitioners
Mr. Partha Pratim Roy
Mr. Ayan Banerjee
..for the State**

The subject matter of challenge in this writ petition is the demand raised by the respondent Baidyabati Municipality to mutate the name of the petitioner no.1 Company, in its records, as the owner of the plots of land being L.R. Plot Nos. 235 and 246, Khatian No.2816, Holding no. 874/C, Pearaporu Road, under Ward No.11 within the area of Baidyabati Municipality (hereinafter referred to as “the said properties”).

In spite of service of a copy of the writ petition the respondent/Baidyabati Municipality remains unrepresented. In this regard, the affidavit of service filed by the petitioners is taken on record.

According to the petitioners, the power to realize the mutation fees by the respondent Municipal authority is circumscribed by Rule 129 of The West Bengal Municipal (Finance and Accounting) Rules, 1999(hereinafter referred to as the “said Rules”).

It is submitted that as per Rule 121(1)(d) of the said rules in the present case the respondent Baidyabati Municipality can only require the petitioners to pay Rs.200/- for mutating the name of the petitioner no.1 in respect of the said properties.

Learned Counsel appearing for the petitioners drew the attention of this Court to the documents, being Annexure P/5 to the writ petition whereby in addition to the mutation fees of Rs.200/- for each of the said properties, the respondent Municipality has raised further claims upon the petitioners on account of surcharge fee, Chane Deed Fees and Location Mat.

It is stressed by the petitioners that in view of the clear and unambiguous provisions contained in Rule 121(1)(d) of the said Rules and the decision of the Hon'ble Supreme Court in the case of Kolkata Municipal Corporation & Ors. Vs. Shrey Mercantile(P) Ltd. & Ors. reported in (2005)4SCC 245 and an unreported decision by a co-ordinate Bench of this Court dated January 29, 2014 in W.P.2520(W) of 2014 filed by the present petitioner no.1 against the same respondent Municipality the demand raised by later on various accounts, except the mutation fee is patently illegal and liable to be set aside.

Learned Counsel appearing for the State respondents could not dispute the contention raised by the petitioners.

As mentioned earlier, in spite of service of the writ petition, the respondents Municipality remains unrepresented. Thus, this writ petition is taken up for final hearing.

In the present case, admittedly, the consideration money or the value of each of the said properties purchased by the petitioner no.1 exceeds of Rs.50,000/-. It cannot be disputed that the right of the respondents Municipality to collect the fees for mutating the name of the petitioner no.1 in respect of the said properties is circumscribed by the said Rules, particularly Rule 121 thereof. In view of the provisions contained in Rule 121(1)(d) of the said Rules, any

demand raised by the respondent Baidyabati Municipality for mutating the name of the petitioner no.1 in respect of the said properties except the mutation fee of Rs.200/- is without jurisdiction and void. This view is fortified by the decision of the Hon'ble Supreme Court in the case of Shrey Mercantile(P) Ltd. & Ors.(Supra) as well as the decision dated January 29, 2014 passed by a co-ordinate Bench of this Court in W.P. 2520(W) of 2014 filed by the present writ petitioner no.1 against the same respondent Municipality.

For the reasons as aforesaid, the writ petition filed by the petitioners succeeds.

The respondent nos. 2 to 4 are directed to forthwith mutate the name of the petitioners in respect of the said properties, upon receipt of mutation fees of Rs.200/- for each of the said properties. The said respondents shall carry out this order positively within two weeks from the date of deposit of mutation fees paid by the petitioners.

With the above directions, the writ petition being WPA 7183 of 2020 stands disposed of. The application being C.A.N.1/2020 also stands disposed of.

All parties including the officers of the Baidyabati Municipality shall act on server copies of the order.

(Ashis Kumar Chakraborty, J.)