

ORDER SHEET
WPO/495/2019; IA NO.GA/1/2020, GA/2/2020
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

ANANDA GUPTA & ANR.
-VS-
STATE OF WEST BENGAL AND 2 OTHERS

BEFORE:
THE HON'BLE JUSTICE BISWAJIT BASU
DATE: 14.10.2020

Mr. R. Ghosh, Adv.; Mr. A. Dutta, Adv.; Mr. N.K. Roy, Adv.; Ms. S. Das, Adv., for petitioners.
Mr. Amitesh Banerjee, Sr. Adv.; Mr. Ayan Banerjee, Adv., for State.
Mr. N. Ray, Adv., for respondent no.3.

The Court: In execution of an ex-parte decree for specific performance of an agreement for sale dated September 07, 2007 passed in C.S. No. 643 of 1990 a deed of conveyance being Deed No.5416 of 2008, was executed in favour of the respondent no.3 herein on April 17, 2018 by the Registrar Original side of this Court.

The said ex-parte decree as well as the said deed of conveyance were subsequently set aside in a proceeding under order IX rule 13 of the Code of Civil Procedure vide order dated December 19, 2011.

The petitioners, on January 18, 2012, filed a representation to the Registrar of Assurance II Kolkata through their learned advocate Mr. M.A. Jabbar requesting to make necessary entries in the relevant books on the ground of setting aside of the said deed of conveyance dated April 17, 2008.

The petitioners complain that the Registrar of Assurance II Kolkata, the respondent no. 2 herein has not considered the said representation of the petitioners till date.

The registering officer in terms of Rule 17(4) of the West Bengal Registration Rules, 1962 is obliged to make marginal note of cancellation of document by the order of Court.

The said rule is quoted below for ready reference:-

“ 17. *Authentication of copies and notes.-* (1).....
 (2).....
 (3).....
 (4) ***Marginal note to be made of cancellation of document by order of a Court.***
When a Court forwards a copy of its decree cancelling a registered instrument under section 39 of the Specific Relief Act, 1877, the Registering Officer shall note, on the margin of the copy in the book in which it has been registered, the fact of the cancellation of the instrument.
 (5)..... ”

Admittedly the order setting aside the said deed of conveyance has attained finality, therefore, the registering authority is required to put necessary endorsement in the relevant book in which the said deed has been registered and to facilitate the same the petitioner is required to supply the certified copy of the order dated December 19, 2011 to the junior of Mr. Amitesh Banerjee, learned Senior Advocate, representing the State respondents who shall transmit the same to the respondent no. 2 along with a copy of this order.

The respondent no.2, or the registrar before whom the said deed was registered in turn, shall make necessary note on the margin of the copy of the book in which the said Deed has been registered within four weeks from the date of communication of this order along with the certified copy of the said order dated December 19, 2011.

With the above directions, the writ petition along with the connected applications stands disposed of.

(BISWAJIT BASU, J.)