

10.12.2021
rc/ct.no.10
Item No.10

WPA No. 2018 of 2017
Sambhu Nath Ghosh
Versus
The State of West Bengal & Ors.

Mr. Somnath Ganguli
Mr. Sukalpa Seal
Mrs. Sabnam Basu ... for the petitioner

Mr. Jaharlal De
Mr. Amritlal Chatterjee ...for the State

Report filed by the learned counsel appearing on behalf of the State-respondents be taken on record.

Heard learned counsels appearing on behalf of the parties.

It is not in dispute that a deed of lease was executed in favour of the petitioner by the Government Authorities on June 22, 2006 and in terms of Clause 2(iv) of the deed, the petitioner was required to raise construction in the said land within three years from the date of execution of the lease. The petitioner completed such construction only in 2015. Clause 10(iii) of the deed indicates that the petitioner/lessee is not entitled to transfer, assign or part with possession of the said plot of land without prior written permission of the lessor.

It is submitted by the learned counsel appearing on behalf of the petitioner that due to medical and financial stringency, the petitioner was unable to complete the

construction within the stipulated period of time only to complete the same in 2015 and the certificate of completion was granted in favour of the petitioner on October 27, 2016. The petitioner granted power of attorney in favour of one Mr. Pasupati Thakur on October 06, 2015 and it appears from the Power of Attorney that such attorney holder was transferred the leasehold property with absolute right to enjoy the land in exclusion of others.

Learned counsel appearing for the petitioner submits that admittedly no such transfer can be made without prior permission of the Government and the Government is at liberty to cancel such transfer. He also submits that the petitioner has raised construction in the land in question and he should be permitted to retain the lease and the letter of resumption dated October 17, 2016 should be recalled. He further submits that the petitioner submitted a representation in this regard before the Estate Manager, Kalyani Urban Development Department, Government of West Bengal on November 09, 2016 which is yet to be disposed of.

Learned counsel appearing on behalf of the State submits that the petitioner has violated the terms of the lease deed by – firstly, not completing the construction in the land within the stipulated period of time and secondly, by transferring the land in favour of one Pasupati Thakur without prior permission of the Government.

Upon consideration of the submission made by the learned counsels appearing on behalf of the parties, this Court is of the view that the petitioner should be given an opportunity to place his case before the Estate Manager, Kalyani Urban Development Department, Government of West Bengal who shall dispose of the representation pending before him after considering the submissions made by the petitioner as well as the documents annexed to the said representation.

I, therefore, dispose of the writ petition with a direction upon the respondent no. 4 to consider and dispose of the representation filed by the petitioner dated November 09, 2016 after giving reasonable opportunity of hearing to the petitioner, within a period of two months from the date of communication of this order, in accordance with law.

It is made clear that this Court has not gone into the merits of the case and the petitioner shall be at liberty to place all the points as raised in the present writ petition and submit relevant documents before the Estate Manager, Kalyani Urban Development Department, Government of West Bengal at the time of hearing.

With the above observations and directions this writ petition being WPA No. 2018 of 2017 is disposed of.

There shall be, however, no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)