

19.07.2021
jb.

W.P.A. 6269 of 2019
(Ram Agya Rai vs. State of West Bengal & Ors.)

Mr. Debasish Chattopadhyay
....For the Petitioner
Mr. Tarun Kr. Ghosh
Mr. Biswajit Dutta
....For the State

The grievance of the petitioner pertains to Plot No. B-2/324, Kalyani, Nadia. It is alleged on behalf of the petitioner that on the basis of a Probate, which the petitioner has obtained, the petitioner is entitled to have the aforesaid premises mutated in his name.

The State respondent is represented and submits that the aforesaid plot was originally allotted in favour of one Anil Chandra Rudra on 11th July, 1963. The possession of the premises was handed over in the year 1988. Thereafter, a lease deed was executed by and between the parties with a specific condition to construct a residential premises at the subject premises. It is submitted on behalf of the State that the original lessee had failed to make any residential construction at the aforesaid premises. This was in breach of the clauses of the lease deed executed by and between the parties. Thereafter, show cause notices

were issued on 7th December, 2009, 26th September, 2009 and 27th November, 2013. All the aforesaid show cause notices were returned with the postal endorsement left/No such person in this address. Accordingly, the Government of Urban Development Department decided to resume the said plot on 14th March, 2014 and have initiated appropriate proceedings in respect thereof.

In reply, it is submitted on behalf of the petitioner that the petitioner has obtained probate of a will in PLA 127 of 2015 on 10th February, 2016. It is further submitted on behalf of the petitioner that on the basis of such probate, the petitioner is entitled to have the said premises mutated in his favour. Hence, this writ petition is filed.

I find that the resumption proceedings were initiated as far back in 2014. I also find that the State respondents have initiated such action on the ground that the original allottee was in default of his contractual obligation. I also find that the State respondents are well within their contractual rights to take the impugned action since no residential construction was ever made on the subject plot of land nor was any explanation provided to the State for such inaction.

I am also of the view that the petitioner does not have an iota of legal right to warrant any interference with the impugned actions. There is no merit in the methodology adopted by the petitioner in thwarting the resumption proceedings initiated by the State. There are no grounds made out which warrant the prayer of the petitioner for the grant of mutation in respect of the subject premises. I am also of the view that probate *per se* does not give the petitioner any right in the subject premises. I also have serious doubts on the *bona fides* of the petitioner in seeking ways to obtain the subject premises in such a manner.

Accordingly, W.P.A. 6269 of 2019 is dismissed.

There shall be no order as to costs.

Photostat certified copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Ravi Krishan Kapur, J.)