

S/L 5
04.08.2021
Court. No. 19
GB

W.P.A. 19163 of 2019

Bimala Prasad Dutta
VS
The State of West Bengal & Ors.

(Through Video Conference)

*Mr. Tapas Kumar Dey,
Mr. Nirupam Sarkar.*

...for the Petitioner.

*Mr. Alok Kumar Ghosh,
Mr. Subhrangsu Panda.*

...for the K.M.C.

*Mr. Sudipta Panda,
Mr. Subrata Ghosh.*

...for the State.

Affidavit-of-service filed in Court today be kept with the record.

The writ petition has been filed by the lessee in respect of premises no.5A/H/13, Canal East Road. The premises no.5A/H/13 is the number of the premises allotted by the Kolkata Municipal Corporation, whereas in the deed of lease entered into between the Additional District Magistrate and District Land and Land Reforms Officer, 24 Parganas (South) and the petitioner, the premises number has been mentioned as 5/H/16, Canal East Road. The petitioner on the strength of the lease deed applied for a building sanction. The Corporation refused sanction on the ground that the premise number as per the lease deed and as per the records of the Corporation did not match.

It is submitted by the petitioner that the Additional District Magistrate and District Land and Land Reforms Officer, 24 Parganas (South), Khas Mahal Section granted lease for the said premises for 30 years. There was a mistake in the lease deed with regard to the number of the premises. The District Land and Land Reforms Officer, 24 Parganas (South) informed the corporation of such mistake and requested the corporation to treat premises no.5/H/16, Canal East Road to premises no.5A/H/13, Canal East Road. The corporation also acknowledged such request and by a letter dated July 7, 2008, the Assessor – Collector (North), Kolkata Municipal Corporation informed the District Land and Land Reforms Officer, 24 Parganas (South) that the rectification should be made in the lease deed and the matter may be further considered only when an unambiguous clearance is given by the department and a paragraph to that effect is incorporated in the rectified lease deed. The records also reveal that the sanction plan submitted by the petitioner was also recommended for sanction by the District Land and Land Reforms Officer, 24 Parganas (South). However, the corporation, in view of such mismatch, has not taken any steps. Aggrieved, the petitioner has moved this Court.

Unfortunately, the petitioner has been put in a fix due to the mistake on the part of the lessor, that is, the Additional District Magistrate and District Land and Land Reforms Officer, 24 Parganas (South) in mentioning the premises number in the lease deed.

The stand of the corporation is clear that unless and until the lease deed is rectified, sanction plan cannot be given on the basis of the incorrect number of the premises. It is the further case of the corporation that unless clearance from the lessor with regard to the said land is available, the corporation will not be able to take steps as the corporation is apprehensive that the land being, a Khas Mahal land under the Government of West Bengal, may be in occupation of other persons or recorded in the name of other persons.

Under such circumstances, this writ petition is disposed of granting liberty to the petitioner to approach the Assessor – Collector (North) Kolkata Municipal Corporation and the Additional District Magistrate and District Land and Land Reforms Officer South 24 Parganas (Khas Mahal Section) for a resolution of the dispute. Admittedly the Kolkata Municipal Corporation has granted a *suo motu* mutation and transferred the bustee premises to non-bustee premises by re-numbering the premises no.5A/H/13 as new premises no.5A/13, Canal East Road. The petitioner has also been acknowledged as the lessee and an assessee number has been given in respect of the premises. Communication from the corporation to the petitioner is on record.

The petitioner has been suffering for a minor mistake made by the Additional District Magistrate and District Land and Land Reforms Department, 24 Parganas (South) in the lease deed. The corporation although recognized the petitioner as the assessee in respect of the premises

no.5A/13, Canal East Road (mother premises no.5A/H/13, Canal East Road), are now raising objections. The corporation cannot dispute the fact that the petitioner has been recognized by the corporation. Such complications may be evaded if both the authorities, that is the Assessor – Collector (North) Kolkata Municipal Corporation and the Additional District Magistrate and District Land and Land Reforms Officer, 24 Parganas (South), together use their expertise and good office to resolve the dispute amicably and issue necessary instructions to the petitioner for compliance. It is expected that the issues shall be resolved without further harassment to the petitioner. The entire dispute should be resolved within a period of eight weeks from date of communication of this order. If the records of the Kolkata Municipal Corporation show that premises No. 5A/13 Canal East Road is not recorded in the name of any other person, in that case the petitioner's case can be considered for sanction of building plan. The Additional District Magistrate and District Land and Land Reforms Officer 24 Parganas South shall give the clearance and resolve the issue.

This Court has not gone into the allegations against the respondents but the Court is of the opinion that once the lease deed has been executed in favour of the petitioner and the mistake of the lessor is sought to be corrected, the issue should be resolved immediately. More so, because these are not private lands. The lands belong to the government and as such the Additional District Magistrate and District Land and

Land Reforms Officer, 24 Parganas (South) would be in a position to clarify the situation and make the necessary rectification as required by the corporation without wasting time. The issue should be resolved within four months from date.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)