

07.03.2022
Court No.13
Item No.23
pk

WPA 26060 of 2008
With
I.A. No. CAN 1 of 2021

(Through Video Conference)

Smt. Gayatri Devi Gupta and another
Vs.
State of West Bengal and others

Mr. R.N. Dutt,
Ms. Sutapa Roy Chowdhury,
Ms. Aratrika Roy

... For the Petitioners.

Mr. Raja Saha,
Mr. Amit Kumar Ghosh

... For the State.

Re: CAN 1 of 2021

The is an application for recalling of the order dated 19.08.2021 by which the writ petition being WPA No.26060 of 2008 was dismissed for default.

Upon perusal of the averments made in the said application, this Court finds that sufficient grounds have been provided for absence of the petitioner on the said date.

CAN 1 of 2021 is thus allowed and disposed of.

The writ petition being WPA No.26060 of 2008 is restored to its original file and number.

Re: WPA 26060 of 2008

The writ petitioners are aggrieved by an order dated 9th September, 2008 passed by the Principal

Secretary, Urban Development Department,
Government of West Bengal.

The brief facts of the case is that plot no.-121 Block-AE, Sector-I, Salt Lake was allotted by the State to one Anil Kumar Banerjee and lease was executed by the Government of West Bengal in his favour. The terms and conditions of the lease was that construction on the said plot would have to be completed within a period of three years thereafter.

By a registered document, the said premises was transferred by the said Anil Kumar Banerjee to one Susil Chandra Chattopadhyay on 16.02.1976. Mutation was effected. The said Susil Chandra Chattopadhyay died on 3rd September, 2005 leaving behind a will bequeathing the said plot of land together with right, title and interest in favour of the writ petitioner no.1. On 7th September, 2005 the Municipal Corporation sanctioned plan in favour of Susil Chandra Chattopadhyay. A development agreement was entered into by the petitioner and one Satya Narayan Saha of M/s. Saraju Associates as the constituted attorney of Susil Chandra Chattopadhyay on 17th September, 2005 for erecting construction on the said land.

Be that as it may, on 07.02.2006, the said will of the Susil Chandra Chattopadhyay was probated in favour of the writ petitioners. By a communication dated 28th June, 2007, the petitioners applied for

mutation before the respondent no.2 and the application remains pending.

By an order dated 9th July, 2008 passed in WPA No. 602(W) of 2008 a Single Bench of this Court directed the respondent no.2 to consider the writ petitioners' application for mutation. The Principal Secretary found that the original allottee did not effect construction on the said plot of land within a period of three years stipulated thereat. As a consequence whereof, a notice was issued in the year 1991. A second notice was issued on 19th September, 2005 in the name of Susil Chandra Chattopadhyay, who had already expired by that time. The writ petitioners did not bother to respond to the same. A further notice dated 12th October, 2006 was again sent in the name of late Susil Chandra Chattopadhyay to appear for hearing, which was not responded to.

By a communication dated 15th January, 2007 the respondents in terms of Clause 4 of the Lease resumed the plot of land vide Order No.86-UD/SE(AL)/AE-121.

The writ petitioners would argue that they have inherited the land bona fide. They had no notice of any defect in the title of the property. The notices of September, 2005 and October, 2006 were not addressed to them. The question of compliance did not arise. It is also submitted that the writ petitioners

asked for copies of the said documents prior to hearing, which were not supplied.

This Court is of the view that the impugned order cannot be interfered with. A property transferred under a testamentary document cannot carry any more value or weight than what it originally possessed. Admittedly, the terms and conditions of lease for the said plot of land, which was originally allotted to the said Anil Kumar Banerjee, was flagrantly violated. The transfer of the same to Susil Chandra Chattopadhyay or any demise thereof by testamentary document or otherwise cannot bind the State.

The acts and omissions of the original allottee and the consequence thereof, must be borne by all persons claiming any right, title and interest from the said allottee.

This Court finds it extremely difficult to believe that the writ petitioners chose to acquire a property, title of which was admittedly defective and did not belong to the testator much less, the original allottee.

This Court is of the clear view that the original allottee was a mere speculator. The land allotted by the State at Bidhannagar at the relevant point of time, was for bona fide residents who wanted to settle in the city of Kolkata and construct permanent houses thereat.

The writ petitioners must suffer the consequences of the acts and omissions of the original allottee.

Hence, the writ petition must fail and is hereby dismissed.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)