

OD-7

ORDER SHEET

IA No. GA/1/2021
With
WPO/1175/2006
In
APO/37/2021

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

MRS. RAHISAN LODHI AND ANR.
-VS-
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE

The Hon'ble JUSTICE KAUSIK CHANDA

Date :22nd November, 2021.

[Via video conference]

Appearance
Mr. Arindam Banerjee, Adv.
Mr. Rajdeep Bhattacharya, Adv.
Mr. Dipendra Chunder, Adv.

Ms. Sucharita Roy, Adv.

Mr. Biswajit Mukherjee, Adv.
Mr. Fazlul Haque, Adv.
Ms. Monisha Nath, Adv.

The Court : This is an appeal against an order dated February 9, 2021 whereby WPO/1175/2006 was disposed of. The operative portion of the impugned order reads as follows:

Presently documents have been produced before this Court wherefrom it appears that the Thika Controller has passed an order in respect of the said premises on 15th March, 2011 by declaring the property in question to be a thika property and

the private respondent as the thika tenant. The petitioners being aggrieved by the same have challenged the order of the Thika Controller before the West Bengal Land Reforms and Tenancy Tribunal and the matter being O.A. No.1072 of 2011 is pending adjudication.

In my opinion, there is no requirement of interfering in the matter at this stage. In the event the petitioners are successful in getting the order passed by the Thika Controller vacated or modified or set aside, then the petitioners will be at liberty to take steps before the Corporation for mutation of the property in their names. The Tribunal shall proceed with the matter without being prejudiced by any observation made hereinabove.

Learned advocate for the appellants submits that the order was passed beyond the scope of the writ petition and hence warrants interference. The name of the appellants was deleted from the Corporation records without granting an opportunity of hearing to the appellants. This is an admitted fact. On that ground alone, the writ petition should have been allowed.

We have heard learned counsel for the Corporation.

The fact remains that the Thika Controller has declared the property in question to be a Thika property and the private respondent as the Thika tenant. The writ petitioners of the appeal are aggrieved by such declaration and have challenged the same before the West Bengal Land Reforms and Tenancy Tribunal by way of OA No. 1072 of 2011 which is still pending. The learned single Judge has granted opportunity to the writ petitioners to approach the Corporation for appropriate correction of the records by restoring their names in the event they succeed before the Land Reforms

Tribunal. We do not see how injustice has been caused to the writ petitioners. We find no reason to interfere with the order impugned.

However, we request the learned Land Reforms Tribunal to make all endeavour to dispose of OA No.1072 of 2011 pending before it as expeditiously as possible and hopefully within a period of 6 months from date in view of the fact that the application has been pending for about 10 years.

The appeal being APO/37/2021 and the application being IA No. GA/1/2021 are disposed of accordingly.

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(ARIJIT BANERJEE, J.)

(KAUSIK CHANDA, J.)