

WPA 873 of 2022

Marium Begum & Ors.
Vs.
Union of India & Ors.

Mr. Mukteswar Maity,
Ms. Indrani Chakraborty,
Ms. Rini Bhattacharjee,
...for the petitioners.
...for the UOI.

Affidavit of service filed by the petitioners is taken on record.

It is submitted on behalf of the petitioners that by virtue of a registered deed of indenture dated 22nd July, 1970 towards exchange of property before the learned District Registrar, Alipore, one Sushil Kumar De occupied the property in question. Sushil Kumar De died intestate leaving behind his sons and daughters as his legal heirs and successors who became the joint owners of the property. Said legal heirs also expired leaving behind their respective legal heirs who became the joint owners of the property. By virtue of a registered deed of gift dated 14th July, 2017 executed by one of the co-owners Md. Bahaluddin, the petitioners acquired title and possession in respect of the property in question. A notice dated 7th April, 2021 was affixed to the premises in question by the Assistant Custodian of Enemy Property of India, Kolkata Branch Office declaring that the property was enemy property.

The occupants were directed to send their willingness to the custodian with the relevant documents for entering into an agreement with regard to the said property. In reply to the said notice, the petitioners submitted a demand notice through their learned advocate before the concerned authority requesting withdrawal of the said notice and release of the aforesaid property in favour of the petitioners.

It is submitted on behalf of the respondents that the petitioners have not submitted any representation before the concerned authority in terms of Section 18 of the Enemy Property Act, 1968. Learned counsel for the respondents prays for a direction upon the petitioners to submit such representation before the authority for consideration at the earliest.

Learned counsel for the petitioners also seek such liberty.

In view of the same, the writ petition is disposed of with liberty to the petitioners to submit a representation before the concerned authority, the second respondent herein, in terms of Section 18 of the Enemy Property Act, 1968 within a week from date. Such representation should be considered and disposed of by the second respondent within a period of two months from the date of receipt thereof after affording reasonable opportunity of hearing to all the

interested parties including the petitioners, in accordance with law.

Pending disposal of the representation, no coercive action should be taken by the respondent authorities against the petitioners in terms of notice dated 7th April, 2021.

With such directions, WPA 873 of 2022 is disposed of. However, there shall be 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 supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)