

07.03.2022
Court No. 19
Item no.09
CP

WPA No. 414 of 2020

Nilambar Chatterjee & ors.
Vs.
The State of West Bengal & ors.

Mr. Pradip Kumar Roy
Mr. Nasiruddin Molla
.....for the petitioners.

Mr. Biswajit Mukherjee
Mr. Gopal Chandra Das
....for the K.M.C.

The challenge in this writ petition is to a Memo bearing no. AC/SSU/Ward NO. 130/199/2019-20 dated July 18, 2019, issued by the Assistant Assessor Collector, Ward No. 130 of the Kolkata Municipal Corporation (hereinafter referred to as 'the corporation').

The grievance of the petitioners is that the corporation had refused to entertain the prayer for mutation of the names of the petitioners in respect of 3 cottahs of land situated at Premises No. 54 Brahma Samaj Road, Police Station – Parnasree, Kolkata – 700034. The petitioners claim to be the exclusive owners thereof, upon execution of a deed of partition, between the co-sharers. It is submitted that by the said memo the petitioners were informed that unless the petitioners submitted a deed of declaration indicating that Premises No. 54 Brahma Samaj Road

correlated to Plot Nos. 6965 and 6963 of Mouza – Behala, the corporation would not consider their prayer. It is the contention of the petitioners that the petitioners approached the District Registrar, 24 Parganas (South) for registering a deed of declaration to that effect, as required by the corporation, but the prayer for registration of the deed of declaration was denied by the District Registrar. It is now submitted that the original executant of the partition deed had since expired and, as such, none would be available for executing the deed of declaration, declaring Premises No. 54, Brahma Samaj Road, measuring around 3 cottahs, to be the corresponding premises of Plot Nos. 6965 and 6963 as stated in the partition deed. The partition deed has been annexed to the writ petition.

Mr. Mukherjee, learned advocate appearing on behalf of the corporation, submits that the corporation does not have any objection to such mutation but for the fact that the Premises No. was missing in the deed of partition and a clarification that Premises No. 54, Brahma Samaj Road corresponded with Plot Nos. 6965 and 6963 of Mouza – Behala, must be submitted by way of a deed of declaration.

With the demise of the original executant in the partition deed, it would not be possible for the

petitioners to submit the deed of declaration. However, the deed of partition and the title deeds indicating that Premises No. 54, Brahma Samaj Road was the same as Plot Nos. 6965 and 6963 and belonged to the predecessors in interest of the petitioners, shall be filed before the corporation. The corporation will consider the records produced by the petitioners and satisfy itself before granting the mutation.

It also appears that the mutation application has already been filed and the premises has been assigned an Assessee No. being No. 41-130-03-0654-0, which means that the corporation has been accepting taxes from the petitioners.

Thus, in the conspectus of things, justice would be subserved if the corporation grants the mutation in respect of the 3 cottahs corresponding to Premises No. 54, Brahma Samaj Road by correlating the same to the Plot Nos. as mentioned in the deed of partition. The heirs of the executant of the partition deed may be heard, if necessary. The corporation shall grant the mutation upon compliance of all other formalities without asking for the deed of declaration, but with a rider that the mutation shall be subject to any objection that may be raised by any party in future.

This order is being passed in view of the fact situation as mentioned hereinabove.

Moreover, mutation does not confer any title. Mutation may give an indication as to who is in possession, but the actual purpose of mutation is an identification of the person who shall be liable to pay the property tax to the corporation.

The entire exercise shall be completed within a period of two months from the date of communication of this order.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)