

WPA 838 of 2019
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CAN 2 of 2020

Nirmal Kumar Dasgupta
Vs.
The State of W. B. & Ors.

Mr. N.C. Bihani
Ms. P.B. Bihani
Ms. Amrita Pandey
Ms. S. K. Kashyap ...for the petitioner.

Mr. Susovan Sengupta
Mr. Subir Pal ...for the State.

Heard learned counsels for the parties.

The petitioner is aggrieved by the order issued by the Joint Secretary to the Government of West Bengal on 28th March, 2018 cancelling the leasehold right of the petitioner in respect of the plot in question.

The petitioner was granted leasehold interest in respect of the plot in question by virtue of a registered deed of lease dated 3rd March, 2011 for a period of 999 years for the purpose of setting up an automobile workshop therein. The petitioner was unable to raise structures on the said land due to his medical emergencies and filed an application before the authority for permission of change of user of the said land from an automobile workshop to a restaurant.

The petitioner also submitted an application before the authority for permission to transfer his leasehold interest in favour of respondent No.4. The petitioner agreed to pay the requisite fees for change of user as well as transfer of his leasehold right.

The petitioner complains that without considering the said applications of the petitioner, which are still pending before the authority, the respondent authorities, by the impugned notice dated 28th March, 2018, has determined the lease of the petitioner and resumed possession of the plot in question. The petitioner agrees to pay the requisite fees for change of user as well as transfer of leasehold rights and prays for a direction upon the authority to withdraw the said resumption and consider the prayers of the petitioner, in accordance with law.

It is submitted on behalf of the State respondents, on instructions, that upon payment of the requisite fees for change of user and also the transfer of the leasehold interest by the petitioner as per the latest notification issued by the Department governing the field, cancellation of the leasehold right as well as the resumption of the property shall be automatically set aside and the prayers of the petitioner may be considered by the authority in accordance with law.

In view of the above, the writ petition is disposed of directing the Principal Secretary, Department of Urban Development and Municipal Affairs, being the 2nd

respondent, to assess the requisite fees payable by the petitioner for change of user of the plot in question and also transfer of the leasehold right in favour of the respondent No.4 in terms of the notifications published on September 16, 2013 and December 26, 2012 respectively or any subsequent notification governing the field and raise such demand upon the petitioner within two weeks from the date of communication of this order.

Upon receipt of such payment notice, the petitioner is directed to deposit the said amount before the concerned authority within two months from the date of receipt thereof. The concerned authority shall allow the petitioner's applications for change of user and transfer pending before it within one month from the date on which the petitioner deposits the requisite fees.

In the event of the petitioner's failure to deposit such fees within the stipulated time frame, the applications filed by the petitioner shall be automatically rejected.

The 2nd respondent is restrained from giving any effect to the order impugned dated 28th March, 2018 till disposal of the applications filed by the petitioner.

With the above observations and directions, the writ petition being WPA 838 of 2019 and CAN 2 of 2020 are disposed of.

However, there shall be no order as to costs.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)