

S/L 3
04.04.2022
Court. No. 19
GB

W.P.A. 2519 of 2022

Manjusha Chakraborty & Anr.
VS
The Chairperson, Board of Administrators,
Kalyani Municipality & Anr.

*Mr. Ankit Agarwala,
Ms. Alotriya Mukherjee,
Mr. Robin Basu*

...for the Petitioners.

Mr. Tapan Kumar Rakshit.

...for the Municipality.

The petitioners by a deed of transfer dated July 30, 2010 claim to have come in possession of a plot situated at B-7/136 at Kalyani Township. Such transfer was with a deemed permission from the Estate Manager, Kalyani, Urban Development and Municipal Affairs Department, Government of West Bengal.

Records also reveal that the Estate Manager, Kalyani, Urban Development and Municipal Affairs Department, Government of West Bengal has recorded the leasehold interest in the said plot in the names of the petitioners. The petitioners have annexed documents to show that the property tax has been paid to the Kalyani municipality. It is submitted that the mutation in the municipal records, has not yet been effected. As a result of which, the petitioners are not being able to enjoy the property effectively, pursuant to the said transfer. The petitioners also rely on certain documents to show that an online submission of the

application for mutation, had been made with necessary documents.

Learned advocate appearing on behalf of the Kalyani municipality submits that the vendors ought to have been made parties to the proceedings. That the mutation application was not filed with the necessary documents and in view of the deficiency in the said application, the question of granting mutation did not arise.

Heard the learned advocates for the respective parties.

It is on record that the original leaseholders in respect of the plot in question had transferred the property to the petitioners by virtue of a deed of transfer dated July 30, 2010, which was subsequently registered. It also appears that the said transferors had come upon the said plot No. B-7/136 at the Kalyani Township, through inheritance. It is submitted that on the basis of the deemed permission from the Estate Manager, Kalyani, such transfer was effected and the names of the petitioners have been recorded as having leasehold interest in the said plot in question. Communication to that effect by the Estate Manager, Kalyani has been relied upon by the petitioners, which is also on record.

Under such circumstances, this Court is of the opinion, that unless there are rival claims in respect of the property to those of the petitioners or there are other irregularities in the mutation application, the mutation must be effected in accordance with law. If there are deficiencies in the documents or in the application which was to be scanned

and uploaded, the municipality shall intimate the petitioners the irregularities in the application and/or the deficiencies in the documents. If the petitioners can furnish those documents and cure the irregularities, the competent authority of the Kalyani municipality shall proceed with the mutation case, in accordance with law, upon granting an opportunity of hearing to the petitioners. A reasoned order shall be passed and communicated to all concerned. If it is found that there are other rival claimants, in such case, the municipality shall hear them in accordance with law. If the occasion so arises, a representative of the Estate Manager, Kalyani Urban Development and Municipal Affairs Department, Government of West Bengal, may be consulted with regard to such transfer and the claim of the petitioners. Mutation neither creates nor extinguishes title. It is only for the purpose of ascertaining and identifying the persons who are liable to pay the tax in respect of the property in question. Under such circumstances, the municipality need not go on a roving enquiry to find out whether there are other claimants or not, unless records and the documents indicate that third parties are required to be heard in the proceeding. Otherwise, if the documents as required are furnished and all requirements for mutation are met, the municipality shall proceed to grant mutation in accordance with law. Such order shall be communicated to the petitioners. In case of denial, reasons shall be disclosed.

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

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)