

31.03.2022

Sl. No. 25

ss

W.P.A. 2539 of 2022

Mirza Hyder Abbas Shirazi

Vs.

Kolkata Municipal Corporation & ors.

Mr. Andul Hamid Molla

... for the petitioner

Mr. Srijan Nayak

Mrs. Rityparna Maitra

... for the K.M. C.

Mr. Javed K. Sanwarwala

... for the respondent nos.4 & 5

The petitioner has raised objection with regard to the mutation granted in respect of the property situated at premises No.109, Ripon Street, Kolkata-700016.

According to the petitioner, the mutation granted in the names of Mehdi Abbas Shirazi, since deceased and Hasan Abbas Shirazi, since deceased, must be cancelled as the same was an act of mistake on the part of the Corporation and also an act of non-consideration of a purported Will.

Mr. Sanwarwala, learned Advocate appearing on behalf of the respondent nos.4 and 5, who are the heirs and legal representatives of Mehdi Abbas Shirazi, submits that the mutation was granted sometime in 2008 on the basis of a certain deed of gift. He submits that the dispute is, with regard to title and possession and relegating the matter to the Corporation for a fresh hearing on the application for cancellation of the mutation, would be clothing the Corporation with the powers of the civil court.

Having considered the rival contentions of the parties, this Court is of the opinion that as the petitioner has raised

certain objection with regard to mutation granted, such objection must be disposed of by the Corporation in accordance with law, only to ascertain whether any mistake had been committed in the process.

Mutation of property neither creates nor extinguishes title. No ownership is conferred on the basis of such mutation. It, at best, may have a presumptive value, but primarily the mutation identifies the person who would be liable to pay tax.

The competent authority of the Corporation is directed to look into the issue whether the mutation was properly granted, on the basis of the records produced by the parties.

A hearing shall be given to the interested parties. The parties must also be allowed to furnish their respective documents and evidence in support of their contentions. Thereafter, a reasoned order shall be passed and communicated to the parties.

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

With the above observations, this 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.)