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29.08.2022
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W.P.A. 5178 of 2022
(CAN 1 of 2022)

(Kalpana Bardhan vs. The Kolkata Metropolitan Development Authority & Ors.)

Mr. Siddhartha Banerjee
Ms. Suchayan Banerjee
.... For the Petitioner

Mr. Satyajit Talukder
Mr. Abhishek Sarkar
..... For the KMDA

The petitioner seeks to expunge the name of the 7th respondent, since deceased, from the cause title of the writ petition. The cause title be amended accordingly by expunging the name of the 7th respondent therefrom.

It is contended on behalf of the petitioner that that she was granted lease of the plot in question in 1995-96 and deed of lease was executed in her favour on 18th January, 1996. Though certificate showing delivery of physical possession of the property was issued by the authority, physical possession of the property could not be handed over to the petitioner due to title suit filed by the 7th respondent (since deceased) against the petitioner before the Civil Judge, Junior Division, 1st Court at Alipore. The title suit was dismissed for default on 26th June, 2007 following which the petitioner approached the respondents for

delivering peaceful possession of the plot in her favour. Several representations submitted by the petitioner in this regard fell on deaf ears. By a letter dated 14th December, 2007 the Administrative Officer & Estate Manager, M & M Unit, Kolkata Metropolitan Development Authority being the 4th respondent herein, directed the Chief Engineer, AD Sector, KMDA to arrange for delivery of possession of the plot in question to the petitioner after physical measurement of the same. The petitioner submits that the said direction has also not been complied with.

It is submitted on behalf of the respondents that it is the usual practice of the authorities to deliver physical possession of the plot in question in favour of the allottee and thereafter execute a deed of lease in her favour.

It appears from the record that the deed of lease was executed by the respondents in favour of the petitioner on 18th January, 1996 whereas the possession certificate was issued on 25th February, 1997, i. e after execution of the deed of lease, thereby negating the submission made on behalf of the respondents.

In any event, as there was direction by the 4th respondent to deliver possession of the plot in question in favour of the petitioner after physical measurement of the plot, by letter dated 14th December, 2007, the said

respondent is directed to cause implementation of the said letter within three weeks from the date of communication of this order.

In the event of change of designation of the 4th respondent, the 2nd respondent is directed to comply with this order within the stipulated time frame.

W.P.A. 5178 of 2022 is thus disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

CAN 1 of 2022 is disposed of.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)