

303.
10.08.2022
S.D.

**W.P.A. 5174 of 2020
With
CAN 1 of 2022**

**Rupantari Co-operative Housing Society Limited & Anr.
Vs.
The State of West Bengal & Ors.**

Mr. Krishnendu Banerjee
Mr. Prithu Ghosh
Mr. Biswajit Dutta

... For the Petitioners.

Mr. Pradip Kumar Roy, Ld. St. Counsel,
Mr. Ankit Sureka
Mr. Partha Sarathi Pal

..For the State.

Mr. D.K. Sengupta
Ms. Sweta Saha

...For the Respondent Nos. 3, 5 & 6.

Affidavits filed by the parties to this writ petition are
taken on record.

The matter relates to issuance of order dated 24.12.2019
passed by the Deputy Registrar, Co-operative Societies,
KMAH being the respondent no. 2.

Mr. Krishnendu Banerjee, learned advocate
representing the petitioners has submitted that vide said
order dated 24.12.2019, the respondent no. 2 directed the
Secretary of Rupantari Co-operative Housing Society Limited
to grant membership of the said Co-operative Housing
Society upon placing reliance on the registered Deed No. 535

dated 31.10.2001 in connection with Flat No. A-44, in favour of the respondent no. 3.

It has been contended on behalf of the petitioners that such order dated 24.12.2019 has been passed *de hors* the provisions of Rule 142(1) of the West Bengal Co-operative Societies Rules, 1987 whereby it has been provided that in cases relating to transfer or letting out of a land, house or apartment, prior permission of the Registrar shall be obtained in addition to written consent of the Society. It has also been submitted on behalf of the petitioners that without adhering to this prescription of the Statute, on giving credence to the said registered Deed executed on 31.10.2001, the petitioner, co-operative society was directed to grant membership of the said co-operative society in favour of the respondent no. 3.

Mr. Sengupta, learned advocate is representing the respondent no. 3 has defended the order passed by the respondent no. 2 and it has been submitted that in terms of the relevant provisions of the West Bengal Co-operative Societies Rules, 1987, no departure has been made by the respondent no. 2 while passing order dated 24.12.2019 in favour of the respondent no.3. Therefore, according to the respondent no. 3, the order passed by the respondent no. 2 may not be interfered with.

Mr. Roy, learned advocate representing the respondent no. 2 has submitted that the impugned order dated 24.12.2019 does not reflect consideration of relevant provisions as contained in the West Bengal Co-operative Societies Rules, 1987. Therefore, it has been submitted by Mr. Roy that the issue needs to be revisited by the concerned authority since there is no occasion to consider the rival submissions of the petitioner, co-operative society and the private respondent on the legal provisions which are being highlighted before this Court today.

This Court has heard the learned advocates representing the parties and perused the materials available on record as well as the relevant provisions as contained in the West Bengal Co-operative Societies Rules, 1987.

On perusal of the impugned order dated 24.12.2019 passed by the respondent no. 2, it appears that simply placing reliance on the registered gift deed executed on 31.10.2001, the order has been passed directing the petitioner co-operative Society to accord membership in favour of the respondent no.3, namely Shri Samarendra Nath Datta. The order appears to this Court is cryptic and devoid of any cogent reasons. The respondent no. 2 while considering the issue relating to grant of membership in favour of the

respondent no.3 was required to take into consideration the relevant provisions of the Co-operative Societies Rules, 1987 framed under the West Bengal Co-operative Societies Act, 1983. It appears to this Court that since the deed of gift was executed on 31.10.2001, the Rules framed under the West Bengal Co-operative Societies Act, 1983 were required to be followed. Therefore, the respondent no. 2 was required to take into consideration the relevant provisions as contained therein.

In view of the aforesaid discussions, the order of the respondent no. 2 dated 24.12.2019 stands set aside upon directing Joint Registrar, KMAH to reconsider the issue relating to grant of membership in favour of the respondent no. 3 after granting opportunity of hearing to the petitioner co-operative society and the respondent no. 3 within a period of eight weeks from the date of communication of this order. The decision to be taken by the Joint Registrar, KMAH to be communicated to the petitioner, co-operative society as well as the respondent no. 3 within a period of one week thereafter.

With the aforesaid directions, the writ petition stands disposed of.

There shall, however, be no order as to costs.

The application, if pending, also stands disposed of.

Learned advocate for the petitioners is granted liberty to add Joint Registrar, KMAH as additional respondent in the writ petition by amending the cause title.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)