

Item No.19
25.11.2022
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Ct. 24

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 9393 of 2021

**Tapan Kumar Mallick
-versus
Kolkata Municipal Corporation & Ors.**

**Mr. Sarbananda Sanyal.
Ms. Poulami Chakraborty
Mr. Anirban Das
...For the Petitioner.**

**Mr. Biswajit Mukherjee,
Mr. Ambar Nath Banerjee.
...For KMC.**

Affidavit-of-service filed in Court today is taken on record.

The matter relates to a flat on the third floor of the premises No. 233C, Fakir Para Road, P.S.-Behala presently Parnashree, Ward No. 130, Kolkata-700034 under the jurisdiction of the Kolkata Municipal Corporation.

The petitioner purchased the said flat in the year 2012 by virtue of a registered Deed of Conveyance. His name was mutated in the records of the Kolkata Municipal Corporation in the year 2019.

Thereafter, the petitioner was intimated that on the appeal made by the Secretary, Naya Ashiana Co-

Operative Housing Society Limited relating to mutation of the aforesaid premises a joint hearing will be held on 3rd April, 2020.

In view of the lockdown imposed, the hearing was deferred.

The petitioner was thereafter, intimated by a communicating letter dated 29th December, 2020 that hearing has already been conducted and an ex parte order passed on 14th October, 2020. The mutation in favour of the petitioner stood cancelled.

It is the specific contention of the petitioner that his mutation stood cancelled without giving any prior opportunity of hearing to him. No notice was given to the petitioner prior to the alleged hearing conducted on 14th October, 2020. The flat in question is not a part of any Co-Operative Housing Society and accordingly, the Secretary of the Society does not have a say in the matter.

A glance at the impugned notice dated 29th December, 2020 reveals that the same is an absolute non-speaking order.

The reason for cancellation of the mutation has not been mentioned in the said notice.

Learned advocate appearing for the KMC has not been able to produce any document before this Court to suggest that hearing was offered to the petitioner prior to cancellation of the mutation which stood finalized way back in 2019.

In view of the above, the impugned communication of the Deputy Assessor Collector (S.S. Unit) dated 29th December, 2020 is set aside and quashed.

The Deputy Assessor Collector is directed to give proper opportunity of hearing to the petitioner and forward all documents to the petitioner requiring a re-opening of the mutation case which stood finalized in October, 2019.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)