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15.02.2022
Ct. No.10
b.das

W.P.A. 10856 of 2018

(Via Video Conference)

Rupa Bhaduri (Lahiri) & Anr.
Vs.
State of W.B. & Ors.

Mr. Debasish Chattopadhyay
Mr. G. Ch. Baidya ...for the petitioner.

Mr. Amitesh Banerjee
Mr. Tarak Karan ...for the State.

The facts admitted in this writ petition are hereunder:-

On an application made by one Jyotish Chandra Lahiri, predecessor-in-interest of the writ petitioners, a plot of land being Plot No. A-8/449, Kalyani, Nadia was allotted to him through an offer letter issued by the Government on 5th January, 1968 which was duly accepted by the latter. Possession of the said plot was made over to the said lessee on 30th May, 1986 and the deed of lease was executed on 15th January, 1988. The lessee was under obligation to raise construction in the demised plot within a period of five years from the date of acceptance of the offer and thereafter such term was extended to 31st March, 1988 by virtue of the deed of lease. Upon violation of the said term by the lessee, the lease was determined by the order of the Governor on

21st December, 2000. Subsequently, the writ petitioners, being legal heirs of the lessee, made representations before the State respondents intimating demise of the lessee and requesting mutation of their names in respect of the plot in question.

It is submitted on behalf of the petitioners that possession of the plot was handed over to the lessee on 30th May, 1986 for which it was not possible for the lessee to raise construction therein prior to the said date. The lessee was unable to raise construction within the stipulated time frame due to personal difficulties. The wife of the lessee expired on 10th August, 1996 and the lessee himself expired on 24th November, 1996. No notice was served upon the present writ petitioners prior to determination of the lease. The petitioners submitted representation before the State respondents requesting mutation of their names in respect of the property which was turned down by the latter by a letter dated 7th July, 2017 (Annexure P-12 to the writ petition). The petitioners pray for direction upon the authority to consider their case sympathetically and grant leasehold right of the property in question in their favour as legal heirs of the erstwhile lessee and grant them opportunity for utilizing the said plot within a stipulated period of time.

In refuting the submission made on behalf of the petitioners, learned counsel appearing for the State respondents submits that despite possession of the plot

being made over to the lessee on 30th May, 1986, the lessee failed to raise construction therein within the required time frame for which show-cause notice was issued upon him by the Department seeking explanation as to why the plot of land should not be resumed by the government for violation of the terms of the offer.

Clause 2 (iii) of the deed of lease stipulates construction of residential building in the plot within 31st March, 1988. In view of breach of said term by the lessee, a show-cause notice was issued upon him on 26th March, 1996 as to why the lease should not be determined for violation of Clause 2(iii) of the deed.

Learned counsel points out that such notice was served upon the lessee during his lifetime despite which no reply to the same was given by the lessee for which the lease was determined by the authority by an order dated 21st January, 2000. The said order was not challenged either by the lessee himself or by his legal heirs, the writ petitioners herein. It was only in 2003 that the petitioners woke up from slumber and submitted a representation before the authority intimating the death of the lessee and praying for mutation in their favour.

Learned counsel submits that such delay not having been explained satisfactorily, the petitioners are not entitled to any relief in the writ petition.

Admittedly, possession of the plot in question was made over to the lessee Jyotish Chandra Lahiri, since

deceased, on 30th May, 1986. Copy of the show-cause notice issued upon the lessee for not raising construction within a period of five years therefrom is not on record. Be that as it may, the lessee was under obligation to raise construction in the plot within 31st March, 1988 in terms of Clause 2(iii) of the deed of lease dated 15th January, 1988. It is not in dispute that such construction was not raised by the lessee within the stipulated period of time. Demise of the lessee was not intimated to the State respondents by the writ petitioners until 2003. The lease was terminated by an order dated 21st December, 2000 in terms of Clause 5(i) of the deed. It is also not in dispute that no application was made by the lessee for extension of the time period for construction.

As the order impugned dated 21st December, 2000 was issued during the lifetime of the lessee, it can be inferred that the same was received by him despite which he chose not to raise any objection against the same. The representation submitted by the present petitioners on 15th July, 2003 is with regard to mutation of their names in respect of the plot and has no bearing with the order of termination of the lease.

The writ petition was filed only in 2018. No plausible explanation has been offered by the writ petitioners as to what prevented them from raising their voice against the order impugned for a period of 18 long years before they came up before this Court in the present writ petition.

It is trite law that the Court cannot come to the aid of an indolent party who chooses not to agitate the issue within a reasonable period. The lapse of time and delay is most material and cannot be ignored. The Court cannot consider the stale demand of the petitioners after lapse of several years.

In view of the same, the writ petition being W.P.A. 10856 of 2018 is dismissed.

However, there shall be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)