

January 20, 2022
ARDR
(10)

WPA 15427 of 2021

Muksida Khatuan @ Muksheda Khatun
Vs.
The State of West Bengal & Ors.

Mr. Kumar Jyoti Tewari,
Mr. Prantick Ghosh,
...for the petitioner.
Mr. Sirsanya Bandopadhyay,
Ms. Tapati Samanta,
Mr. Arka Nag,
...for the State.

It is submitted on behalf of the petitioner that the petitioner is the owner of the plot in question by virtue of purchase by registered deeds dated 24th June, 1968, 9th December, 1983 and 5th March, 1984 and is in possession of the same by recording her name in the L.R. record of rights. The petitioner complains that on 23rd September, 2019 she learnt about the existence of a fake and forged deed of sale allegedly executed by the petitioner in favour of the private respondent by virtue of which a portion of the petitioner's land was recorded in the name of the said respondent. The petitioner lodged a complaint to that effect before the Rajarhat police station and also approached the Block Land and Land Reforms Officer for redressal. Being aggrieved by the order passed by the Block Land and Land Reforms Officer, the petitioner preferred an appeal under Section 54 of the West Bengal Land Reforms Act, 1955

before the appellate authority, being respondent no.3 herein and by an order dated 4th July, 2019, the appellate authority observed that the genuineness of the registered instrument ought to be determined by the Civil Court and the parties were granted liberty to approach the appropriate Court for redressal of their grievances. Subsequently, a notification was issued by the Principal Secretary and Land Reforms Commissioner, Land and Land Reforms and Refugee Relief and Rehabilitation Department, on 17th January, 2020 which states that in case of reports of attempts to get names recorded in the record of rights by furnishing fake or forged deeds, such matter should be referred to the registration authority concerned. On receipt of confirmation from the authority that the deed is fake or forged, penal action should be initiated against the wrongdoer by lodging First Information Report with the concerned police station. It is further ordered that the Block Land and Land Reforms Officer shall cancel the mutation proceeding initiated on the basis of the forged document and restore the record to its original position under Section 50(1)(f) of the West Bengal Land Reforms Act, 1955. In terms of the said notification the petitioner submitted a representation before the authority on 31st August, 2021 which is yet to be disposed of. The petitioner prays for a direction

upon the authority to consider the representation at the earliest.

It is submitted on behalf of the State respondents that the notification dated 17th January, 2020 is not applicable in the case of the petitioner as the petitioner has already approached the appellate authority under Section 54 of the Act of 1955 and an order has been passed by the authority in this regard. Also, penal action has been initiated by the petitioner against the alleged wrongdoer and as such, the petitioner is not entitled to be guided by the observations made in the notification dated 17th January, 2020.

True, the notification has come into effect after the appeal preferred by the petitioner under Section 54 of the Act of 1955 was disposed of by the appellate authority. However, as the petitioner has submitted a representation before the appropriate authority praying for cancellation of the mutation proceeding initiated on the basis of forged and fake deed allegedly executed by the petitioner in favour of the private respondent, this Court is of the view that the concerned authority should be directed to dispose of the said representation on merits after granting reasonable opportunity of hearing to the parties.

Accordingly, the writ petition is disposed of directing the 2nd respondent to consider and dispose of

the representation submitted by the petitioner dated 31st August, 2021 after granting reasonable opportunity of hearing to all the interested parties including the petitioner and the private respondent, in accordance with law.

WPA 15427 of 2021 is disposed of. 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 furnished to the parties on usual undertakings.

(Suvra Ghosh, J.)