

Sl. No.11
13.09.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 14956 of 2022

M/s. South City Projects (Kolkata) Ltd. & Anr.
vs.
Nabadiganta Industrial Township Authority &
Ors.

Mr. Sakya Sen
Mr. Satadeep Bhattacharya
Mr. Saptarshi Datta
Mr. P.K. Pal

... for the petitioners

Dr. Madhusudan Saha Ray

... for the respondent no. 1 & 2

The petitioners are aggrieved by the act of Nabadiganta Industrial Township Authority in calculating the mutation fee on the basis of the market value of the property as fixed by ADSR, Bidhannagar.

The petitioner no. 1 has been intimated by a communication dated 31st May, 2022 that the application for mutation may be processed subject to the payment of an amount of Rs.30,12,695/- as mutation fee and Rs.5,000/- as processing fee.

The petitioner relies upon the provision of Rule 121 of the West Bengal Municipal (Finance & Accounting) Rules, 1999. Reliance has also been placed upon the communication made by the Joint Secretary, Department of Municipal Affairs to the Chairman/Chairperson of the

Municipalities/notified area authority with regard to realisation of mutation fees by the Urban Local Bodies.

As per provision of Rule 121 in case of transfer by sale Rs.200/- is the mutation fee, if the value of the property exceeds Rs.50,000/-.

The communication made by the Joint Secretary mentions that in spite of existence of the Rule, it is observed that some of the Municipalities are charging higher rate of mutation fees and levying other charges, such as, processing fees in violation of the legal provisions.

The Joint Secretary requested all authorities to ensure strict compliance of Rule 121 in relation to imposition of mutation fees and further restrained the Municipalities from levying any other fees, charges such as processing fees etc. in mutation cases.

In the present case, the petitioner no. 1 has been directed to pay the sum of Rs.30 lac and odd on account of mutation fees and Rs.5,000/- as processing fees. The same is absolutely in violation of the provision of the Rule 121 as indicated hereinabove.

Learned advocate representing the Nabadiganta Industrial Township Authority has fairly submitted before this Court that the authority concerned is duty bound to comply with the provision of law and cannot impose any other charges for the purpose of effecting mutation over and above the amount specified in Rule 121.

In view of the above, the instant writ petition is disposed of by directing the Executive Officer of the Nabadiganta Industrial Township Authority, being the respondent no.2 herein to effect mutation of the property in question strictly in accordance with provision of Rule 121.

The said officer is restrained from charging any sum on account of processing fees.

As there is no provision to charge mutation fee on the basis of market value of the property the impugned communication dated 31st May, 2022 made by the Executive Officer supported by calculation forwarded to the petitioner no. 1 by a communicating letter dated 2nd June, 2022 are, accordingly, set aside and quashed.

The respondent no.2 shall take steps in the matter at the earliest, but positively within a period of eight weeks from the date of submission of all documents for the purpose of effecting mutation.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)