

Item No. 56

06.09.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

WPA 15164 of 2022
Mr. Pradip Kumar Ghosh
v.
The State of West Bengal & Ors.

Mr. Arnab Roy
Mr. Satyam Mukherjee
Ms. Sayani Ahmed
... for the petitioner.

Mr. Santanu Kumar Mitra
Mr. Mirza Kamruddin
... for the State.

Mr. Sharanya Chatterjee
Mr. Pinak Kumar Mitra
Ms. Subhanwita Ghosh
... for the respondent no.10.

Ms. Mousumi Bhowal
Mr. Ishan Bhattacharya
... for the Municipality.

The petitioner claims to be an occupier in respect of 07 cottah, 00 Chitak 00 sq.ft. with 200 sq.ft. existing structure (Mouza-Patipukur, J.L. No.24, C.S. Khatian No 256, C.S.Dag No. 5) under the jurisdiction of South Dum Dum Municipality.

By the impugned order the Executive Officer of the South Dum Dum Municipality has directed for deleting the name of the petitioner from the assessment register and to incorporate the name of the private respondent. The same has been done on the basis of a

registered deed of conveyance being Deed No. I-15196 of 2011.

The petitioner relies upon mutation certificate issued in his favour in the year 2011 wherein the name of the petitioner has been recorded as occupier. Reliance has also been placed on the record-of-rights in respect of the said property wherein it has been mentioned that the property is recorded in the name of the railways.

The petitioner submits that the municipality ought not to have relied upon the title deed for the purpose of incorporating the name of the private respondent in the mutation certificate.

It has been submitted that the petitioner is carrying on business in the said property since 1978 and the petitioner is regularly paying his taxes in respect of the same.

Learned advocate representing the private respondent submits that the petitioner accepted the ownership of the private respondent by filing a Title Suit claiming adverse possession of the said property.

It has been submitted that there is a registered deed of conveyance in favour of the private respondent and there are chain deeds relying on which the municipality made the necessary correction in the assessment record.

It appears from the order impugned that the Executive Officer of the Municipality has taken into consideration the fact that the petitioner happens to be an occupier of the said premises and a mutation certificate was issued in his name way back in the year 2011. The Municipality thereafter took into consideration the link deeds of the property in question and relying on the same directed to delete the name of the petitioner as occupier and record the name of the private respondent as appearing in the title deed. The municipality has not passed any order disturbing the possession of the petitioner.

It is settled law that mutation of property is only for the purpose of identifying the person liable to pay tax. A mutation certificate neither extinguishes nor creates title in favour of the person in whose favour the mutation certificate has been issued.

The petitioner claims to be in possession. A Suit was filed by the petitioner claiming adverse possession of the said property. The final outcome of the Suit has not been made known to the Court. The fate of the Suit is also not disclosed in the writ petition.

It is also settled law that even a trespasser has to be dispossessed in accordance with the provision of law and not otherwise.

Here the case is only with regard to the mutation.

The parties will be at liberty to approach the appropriate forum for seeking redressal of their grievances with regard to ownership or possession of the property in accordance with law, if so advised.

There is no requirement of interfering with the order passed by the Executive Officer impugned in the writ petition.

The writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)