

32. 27.01.2022
Ct. No.06
Tanmoy

M.A.T. 1141 of 2021
With
IA No: C.A.N. 1 of 2021
With
IA No: C.A.N. 2 of 2021

Ram Agya Rai
-Versus-
The State of West Bengal & Anr.

(Through Video Conference)

Mr. Sudip Sanyal, Adv.,
Mr. Debasis Basu, Adv.,
Mr. Arun Bandyopadhyay, Adv.,
Mrs. Tutun Das, Adv.
...for the appellant.

Mr. Chandi Charan De, Ld. A.G.P.,
Mr. Haripada Maity, Adv.,
Mr. Anirban Sarkar, Adv.
...for the State.

In Re: IA No: C.A.N. 1 of 2021

This is an application for condonation of delay of eight days in filing the appeal. Causes shown being sufficient, the delay is condoned. The application being IA No: C.A.N. 1 of 2021 is disposed of.

In Re: M.A.T. 1141 of 2021
With
IA No: C.A.N. 2 of 2021

By consent of the parties the appeal and the connected applications are taken up together for hearing through video conference.

Affidavit of service filed in Court today be kept with the records.

Plot no. B-2/324, Kalyani, Nadia, was allotted by the State in favour of one Anil Chandra Rudra on 11th July, 1963. Anil Chandra passed away in 2009.

The writ petitioner/appellant says that the plot in question has been devised by the original allottee in his favour by way of a Will of which he has obtained probate. Hence, he is entitled to be mutated as the lessee of the said plot.

The State has initiated proceedings for resuming possession of the plot in question alleging that the original allottee did not comply with one of the salient conditions of the allotment/lease that he shall make construction on the plot within the specified period of time.

The writ petitioner has made a request to the Estate Manager and *Ex Officio* Assistant Secretary to the Government of West Bengal, Urban Development Department, *vide* letter dated July 26, 2016 for mutating his name in place and stead of the original allottee in respect of the concerned plot. The writ petitioner says that by a Memo dated September 29, 2016, the concerned Officer called upon the writ petitioner to furnish certain documents mentioned in the said Memo. The writ petitioner has furnished such documents. However, no decision has been taken by

the concerned Officer regarding the request of the writ petitioner.

We have heard learned Advocate for the State also. Mr. De, learned Advocate representing the State, says that the writ petitioner has no right to claim mutation of the said plot in his name. The learned Single Judge dismissed the writ petition.

We are of the view that since the writ petitioner's prayer for mutation is pending before the concerned Officer being the respondent no.2 herein, an early decision should be taken thereon in accordance with law and the applicable rules/regulations/notifications after giving an opportunity of hearing to the writ petitioner or his authorized representative. Needless to say, the decision shall be a reasoned decision. The exercise should be completed within three months from the date of receipt of a copy of this order by the respondent no.2 from the writ petitioner/appellant.

We have not considered the merits of the writ petitioner's claim. It will be up to the respondent no.2 to take an informed decision in accordance with law. The decision so taken, shall be communicated to the writ petitioner within a week from the date of the decision.

Since we have not called for affidavits, the allegations in the stay petition are deemed not to be admitted by the respondents.

Accordingly, the appeal being M.A.T. 1141 of 2021 and the application being IA No: C.A.N. 2 of 2021 are disposed of.

Let urgent photostat certified copies of this order, if applied for, be supplied to learned Advocates for both the parties, upon compliance with all usual formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)