

14.01.2022
Court No. 19
Item no.20
(gc)

WPA 18528 of 2021

**Bicrom Avijit Das & Anr.
Vs.
The Kolkata Municipal Corporation & ors.**

Mr. Subhankar Nag, Adv.,
Mr. Snehashis Sen, Adv.,
.....for the petitioner.
Mr. Srijan Nayak, Adv.,
Mrs. Tanushree Dasgupta, Adv.,
...for the K.M.C.

The petitioners are the heirs and legal representatives of Late Arunendu Das. The petitioners are aggrieved by the communication received from the Assistant Assessor Collector (S), Assessment Collection, Tolly Tax Department, Kolkata Municipal Corporation dated 20th July, 2020. By the said communication, the petitioner No.1 was instructed to submit a deed of partition between Arunendu Das and M/s. Builders Froum represented by its partners Sri Dipak Kumar Ghosh for the purpose of mutation. According to the petitioners, there was no deed of partition between Arunendu Das and M/s. Builders Froum. By an agreement dated August 16, 2002, the father of the petitioners and M/s. Builders Forum agreed that the father of the petitioner would retain 1/5th share in the property situated at Premises No.163/10, N.S.C.

Bose Road, presently known as 77, Manik Bandopadhyay Sarani, Police Station Regent Park, Kolkata – 700 040.

The portion of the building to be allotted to the father of the petitioners by the builders has been mentioned in the said agreement. It also appears that the cost of construction was paid by the petitioners' father as per the agreement. The petitioners contend that no further deed of partition or conveyance was ever executed.

Mr. Srijan Nayak, learned Advocate for the Municipal Corporation submits that as per the rules, the Corporation has rightly asked the petitioners to furnish the deed on the basis of which the share of the entire building was divided between the promoters and the petitioners' father in the proportion of $4/5 :: 1/5$. According to Mr. Nayak without the deed of partition between the parties, the petitioners' father would not have got exclusive separate share from the other co-owners who had sold their entire share in favour of the promoter.

Be that as it may, the petitioners have made a representation before the Assistant Assessor Collector, Assessment Collection, Tolly Tax Department, Kolkata Municipal Corporation dated 19th September, 2020 by the learned Advocate. The

said representation should be considered and disposed of in accordance with law by the said authority by granting an opportunity of hearing to the petitioners and/or their representatives as also the representative of M/s. Builders Forum and the erstwhile co-shares. A reasoned order shall be passed and communicated to the parties. The entire exercise shall be completed within a period of three months from the date of communication of this order. In the order, the authorities shall indicate the formalities, if any, to be complied with by the petitioners for the mutation.

The petitioners shall be entitled to raise all points as raised by the Municipality at the time of hearing in support of the contention.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)