

06.04.2022
Court No. 19
Item no.22
CP

W.P.A. No. 18997 of 2021

Abhijit Kumar Chatterjee & anr.
Versus
Kolkata Municipal Corporation & Ors.

Mr. Aniruddha Chatterjee
Mr. Iftekar Munshi

...for the petitioners.

Mr. Srijan Nayak
Ms. Paushali Banerjee

...for the K.M.C.

The writ petition has been filed challenging the communication of the Assistant Assessor – Collector (S), dated October 8, 2021, directing the petitioners to maintain status quo with regard to the property situated at 5/1, Tiljala Road. Such communication was made pursuant to a joint inspection held with the petitioners.

The petitioners submit that the application for mutation of the names of the petitioners in respect of the portion of the property enjoyed by the petitioners ought to have been allowed as the petitioners have inherited the property from their predecessor. The next submission is that the Kolkata Municipal Corporation (hereinafter referred to as ‘the

corporation') could not have directed status quo be maintained till the matter is settled by a court of law.

The learned advocate appearing for the corporation, submits that the property lies adjacent to another premises. Both the premises are very old and the boundary could not be demarcated. As a result of which, the mutation could not be effected without distinct boundaries. It is submitted that the corporation is not equipped to make such demarcation. It is further submitted that the boundary declaration as filed by the petitioners could not be acted upon as the corporation in the joint inspection still could not demarcate the two premises. It is further submitted that the property was originally under the E.D.F. Railway and the corporation tried to ascertain the matter from the railways, but the railways could not produce any documents with regard to the demarcation of the property in question, which allegedly was a railway surplus land.

Having heard the learned advocates for the respective parties, this court is of the opinion that in case the mutation could not be effected by the corporation upon consideration of the relevant records, the same should have been intimated to the petitioners. The corporation did not have any power

under the law to direct the parties to maintain status quo till the issue was decided by a court of law.

The communication dated October 8, 2021 has been issued in excess of jurisdiction and the same is set aside.

If the petitioners can furnish better particulars and documents with regard to the demarcation and boundaries of the area owned and enjoyed by the petitioners, the corporation shall reconsider the prayer with regard to the mutation and pass necessary orders, in accordance with law. This court has not gone into the claims and counter claims of the parties.

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.)