

88.
25.04.2022
S.D.

W.P.A. 20395 of 2021

**Promotha Kumar Sarkar
Vs.
The State of West Bengal & Ors.**

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
Ms. Dipanwita Ganguly
Mr. Kaustav Bhattacharya

...For the petitioner.

Mr. Chandi Charan De, Ld.A.G.P.,
Mr. Anirban Sarkar

....For the State.

Mr. Mrityunjoy Goswami
Mr. Parikshit Goswami

...For Respondent No. 5.

The contention of the petitioner is that though the predecessor-in-interest of the petitioner was allotted plot no. LOP-79 by the Refugee Relief and Rehabilitation Department, Government of West Bengal, the free hold title deed with regard to the said plot was executed in favour of the private respondent by mistake. A title suit praying for declaration and injunction filed by the petitioner in this regard was dismissed by the learned Trial Court and the said judgment was also affirmed in appeal. Second Appeal referred by the petitioner is pending.

The private respondent, on the other hand, filed an eviction suit against one Pushpa Sarkar in respect of the plot in question without impleading the writ petitioner as a party defendant therein and the suit was decreed ex parte. The present petitioner appeared in the execution proceedings by an application under Order XXI, Rule 99, 100 of the Code of Civil Procedure which was registered as Misc. Case No. 10 of 2003 and is still pending.

Learned counsel appearing for the petitioner submits that during pendency of the Second Appeal, the petitioner was informed by the S.P.I.O. & O.C., Refugee Relief & Rehabilitation Section, Barasat, North 24 Parganas in reply to an application made by him under the Right to Information Act, 2005 that the name of the allottee in LOP-79 was Satish Chandra Biswas (predecessor-in-interest of petitioner) and the free-hold title deed was issued in respect of LOP-79 in favour of Monorama Biswas (private respondent). The petitioner further draws the attention of the Court to page 12 of the writ petition which demonstrates that by a letter dated 28.12.2020, the District Rehabilitation Officer, Barasat, North 24 Parganas acknowledged that the name of the private respondent was recorded with regard to LOP-79 due to clerical mistake. The District Rehabilitation Officer, by letter

dated 28.12.2020, requested the private respondent to appear before him for issuance of fresh rectified deed against LOP-76 which is in fact allotted in favour of the private respondent.

Learned counsel for the petitioner intends to bring these facts before the Hon'ble Division Bench in the pending appeal and seeks liberty to withdraw the writ petition on this score.

Accordingly, W.P.A. 20395 of 2021 is dismissed for non-prosecution.

Liberty is granted to the petitioner to approach the appropriate forum for redressal of his grievance.

However, there shall be no order as to costs.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)