

**15.03
2022**

Sarit Banik Chaudhuri

Vs.

**The State of West Bengal & Ors.
(Via Video Conference)**

Mr. Amitava Chaudhuri
Ms. Monoleena Chaudhuri
Mr. N. Roy **...For the Petitioner**

Let a copy of such notice be taken on record.

The petitioner claims that his father has gifted a property, being plot No. 202 in the Sub-Block No. A-9 of Block No. A in the township of Kalyani, District – Nadia, by virtue of a deed executed on 19.06.2009. The petitioner thereafter prayed for mutation of the said leasehold property before the Urban Development Department, Government of West Bengal. The Estate Manager, Kalyani, vide Memo dated May 11, 2015 directed the petitioner to deposit a sum of Rs.3,25,000/- (rupees three lakhs and twenty-five thousand) only, as transfer fees in terms of Notification dated October 08, 2010 and October 01, 2012.

Mr. Chaudhuri, learned Advocate for the petitioner refers to the Notification dated February 17,

2015, which is annexed at page 49 of the writ petition and submits that the Authorities issued the Memo dated May 11, 2015 without taking into consideration the Notification dated February 17, 2015.

He further submits that since the relationship between the donor and donee in the instant case falls within the close blood relation, as stated in the Notification dated February 17, 2015, the demand raised by the Authorities is unjustified.

I have heard the learned Advocate for the petitioner and perused the materials placed on record.

On perusal of the Deed of Gift it appears to this Court that the father has gifted the property in favour of the son i.e. the writ petitioner. It further appears that the petitioner applied for mutation of the property on June 30, 2014. Since the property in question has been transferred by the father to the son by execution of a Deed of Gift, this Court is of the view that the Notification dated February 17, 2015 shall be applicable in the instant case. The said notification states that the transfer fees will not be applicable for the cases of transfer that are within close blood relations and in those cases only a nominal amount of processing fee not exceeding Rs. 1,000/- (rupees one thousand) only may be realised. The contention of the writ petitioner with regard to applicability of the notification dated February 17, 2015 remains uncontroverted.

The scale of fees mentioned in the notification dated 1st October 2012 applied to transfers which took place prior to 12.07.2005 and the same cannot apply to the instant

case.

In view thereof, this Court is of the view that the Memo dated May 11, 2015 issued by the Estate Manager, Kalyani Urban Development Department, Government of West Bengal, is liable to be set aside and quashed and the same accordingly stands set aside and quashed.

The Estate Manager, Kalyani Urban Development Department, Government of West Bengal, being the respondent No. 3 herein is directed to mutate the name of the petitioner pursuant to the application submitted on June 30, 2014 only upon realisation of the fees as stipulated in the Notification dated February 17, 2015 within a period of eight weeks from the date of communication of this order.

With the aforesaid directions, the writ petition is disposed of.

There shall be however no order as to costs.

Urgent photostat copy of the order, if applied for, be supplied to the petitioner on priority basis on compliance of necessary formalities.

(Hiranmay Bhattacharyya, J.)