

OD-6

ORDER SHEET

WPO/1424/2022

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

ABRARUL HAQUE
Versus
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 15th March, 2022.

Appearance:
Mr. Ranajit Chatterjee, Adv.
Mr. Aniruddha Mitra, Adv.
... for the petitioner

Mr. Gopal Chandra Das, Adv.
Mr. Debangshu Mondal, Adv.
... for the KMC

Mr. Hamidul Haque, Adv.
... intervenor (in person)

The Court :- This application has been filed challenging the inaction on the part of the Assessor-Collector (South), Kolkata Municipal Corporation in taking steps pursuant to the application for mutation of the M. Safiulla Estate represented by its Mutwalli, Abrarul Haque in respect of the Wakf Estate situated at 6, Kasai Para Lane, Kolkata – 700017 which allegedly forms part of the Wakf Estate.

Mr. Hamidul Haque seeks to intervene in the proceedings on the ground that he is a beneficiary and submits that no order should be passed in the absence of the beneficiary. Prayer is allowed. Mr. Haque submits that the grant of mutation in the name of the Mutwalli will amount to acknowledging the right, title and interest of the Mutwalli in respect of the Wakf Estate.

Mr. Chatterjee, learned advocate submits that the predecessor-in-interest of the intervenor preferred a suit before the learned Tribunal challenging the Mutwalliship of Mr. Abrarul Haque. The suit was dismissed. The Mutwalliship of Mr. Abrarul Haque was upheld. Challenging the aforementioned decision, a Civil Revisional Application is pending before the High Court.

Mr. Das, learned advocate appearing for the Corporation submits that the Corporation shall consider the application for mutation in accordance with law upon hearing the contesting parties.

Having regard to the submissions and considering the rival contentions of the parties, this Court is of the opinion that mutation does not create any right or title in favour of the Mutwalli. It is an identification of the person liable to pay tax. A Mutwalli is merely a Manager of the Wakf Estate. The Wakf Estate can never be his personal property. Thus, the apprehension of Mr. Haque is not correct.

The competent authority of the Corporation is directed to dispose of the aforementioned application for mutation in accordance with law

upon hearing the petitioner, the intervenor/beneficiary Mr. Hamidul Haque, a representative of the Wakf Board and any other interested party who may approach the Corporation. A reasoned order shall be passed and communicated to the parties. The entire exercise shall be completed within a period of four weeks from the date of communication of this order.

The mutation, if granted, shall not create any equity in favour of the Mutwalli. As the Mutwalliship is subject to the decision of the pending litigation before this court, the court does not make any observation in this regard.

WPO No. 1424 of 2022 is disposed of accordingly.

(SHAMPA SARKAR, J)

RS