

ORDER SHEET
WPO/2384/2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

M/s Abyaar Real Estate Development Private Limited.
Versus
The State of West Bengal & Ors.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date : 3rd November, 2022.

Mr. Raghunath Chakraborty with Mr. Supratik Sanyal
& Ms. Sonali Sengupta, Adv.
... for petitioner.

Mr. Biswajit Mukherjee with Mr. Swapan Kr. Debnath, Adv.
... for KMC.

Mr. Malay Krishna De, Adv.
... for State.

The matter relates to the premises no. 15, Ismail Street, Kolkata – 700014. The writ petitioner purchased the aforesaid property by virtue of a Deed of Conveyance in the year 2021. The property in question was initially let out for running a workshop.

An application was made by the petitioner for using the said property for residential purpose. The Deputy Assessor Collector (South), Assessment-Collection (South) Department of Kolkata Municipal Corporation, by communicating letter dated 17th March, 2022, enquired from the Controller, Kolkata Thika Tenancy, as to whether the premises in question fell within the purview of Thika Property or not. No answer was forthcoming from the Controller, Kolkata Thika Tenancy.

The Controller, Kolkata Thika Tenancy filed a report before this Court. The same mentions that Smt. Jayabati Ghosh, Smt. Pushpa Rani Ghosh and Smt. Snigdha Sur had submitted return in Form 'A' in respect of the subject premises comprised in the estate of the erstwhile zamindar Sudhangshu Kumar Seth. Submission of return in respect of the subject premises prima facie raises a presumption that the property is a thika property. There was no response from the aforesaid returnees to the notice issued by the Controller, Kolkata Thika Tenancy towards taking steps for final determination. The status of the premises is still subject to the final determination by adjudication under the provisions of West Bengal Thika Tenancy (Acquisition & Regulation) Act, 2001.

The petitioner in the present writ petition prays for a direction upon the Kolkata Municipal Corporation to delete the entry of 'workshop' against the said premises.

Learned Advocate representing the Kolkata Municipal Corporation submits that till the status of the property is adjudicated by the Controller, Kolkata Thika Tenancy, Kolkata Municipal Corporation will not be in a position to take any further steps for deletion of the said recording.

As it appears that the adjudication of the property as to whether the same is thika or not, is pending before the Controller, Kolkata Thika

Tenancy, accordingly, leave is granted to the petitioner to apply before the appropriate forum for determining the status of the property in question.

No further relief can be granted to the petitioner in the instant case.

The writ petition is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(AMRITA SINHA, J.)