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ORDER SHEET

WPO No. 2515 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

ARPITA SAHA
Versus
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date : 9th September, 2022.

Appearance:

Mr. Kushal Chatterjee, Adv.
Mr. Debrup Choudhury Adv
Mr. Abhimanyu Banerjee, Adv.
..for Petitioner.

Mr. Barin Banerjee, Adv.
Mrs. Sima Chakraborty, Adv.
...for KMC.

Md. Sabir Ahmed, Adv.
..for Respondent No.7.

The Court:-The learned advocate appearing for the petitioner submits that the complaint filed by the petitioner before the Kolkata Municipal Corporation objecting to the incorporation of the name of the respondent no.7 in the municipal records is pending consideration.

It has been submitted that one Kalipada Das was the sole owner and occupier of the premises No.24B, Durga Charan Doctor Road, P.S.-Taltala, Ward No.53, Borough-VI, Kolkata-700014 under the jurisdiction of the Kolkata Municipal Corporation.

The said Kalipada Das had two wives, namely Binapani Das and Khokon Bala Dasi. The petitioner happens to be the heirs of the first wife of Kalipada Das whereas private respondent no.7, Ashok Kumar Das, in whose favour the

property has been mutated, is the son of the second wife of Kalipada Das, namely Khokon Bala Dasi.

The petitioner objected to the mutation by incorporating the name of Ashok Kumar Das in the municipal records without affording an opportunity to the other heirs and legal representatives of the deceased, Kalipada Das by filing representation before the respondent authorities in July, 2022. The same has not been considered till date.

Learned advocate representing the Kolkata Municipal Corporation submits that the name of Ashok Kumar Das was recorded on the basis of a deed of gift executed in favour of Ashok Kumar Das by his mother Khokon Bala Dasi.

Assuming that the deed of gift was executed by Khokon Bala Dasi, the same could have been limited only to the share owned by Khokon Bala Dasi and not in respect of any share of Binapani Das.

Prior to making necessary mutation in the name of Ashok Kumar Das, the Corporation ought to have afforded an opportunity of hearing to the other legal heirs. The same has not been done. The Corporation proceeded unilaterally relying upon the document produced by Ashok Kumar Das.

In view of the above, the instant writ petition is disposed of by directing the respondent no.4, the Chief Manager (Revenue South), Kolkata Municipal Corporation, to take into consideration the representation filed by the petitioner on 16th July, 2022 strictly in accordance with law, at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

The aforesaid respondent shall afford reasonable opportunity of hearing to all the necessary parties prior to passing a final order in the matter.

A reasoned order shall be passed and communicated to the parties immediately thereafter.

Learned advocate for the petitioner is directed to forward a copy of the representation dated 16th July, 2022 along with all other documents in support of the claim of the petitioner to the aforesaid respondent at the time of communicating the order of this Court.

The writ petition stands disposed of.

Affidavit of service filed in Court today is taken on record.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(AMRITA SINHA, J.)

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