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18.07.2023
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 2358 of 2022

**Tarak Nath Singh
-versus
The Bhadreswar Municipality & Ors.**

**Mr. Bidyut Kumar Halder,
Mr. Indranil Halder,
Ms. Srabanti Das,
Ms. Neha Singh.
...For the Petitioner.**

**Mr. Somnath Roy.
...For the Municipality.**

The petitioner alleges that the Bhadreswar Municipality has taken forceful possession of the land which is still now recorded in his name.

According to the Municipality, the land in question was voluntarily gifted by the petitioner in favour of the Municipality long back and relying on such handing over of possession, the Municipality has constructed a Community Hall at the said place.

Learned advocate appearing for the Municipality however, admits that there is no registered deed in support of the gift. The Municipality relies upon certain documents which are not registered.

Learned advocate appearing for the petitioner admits that till date there has been no registration of the deed of gift.

This Court is of the opinion that the Municipality cannot force the petitioner to gift any land in its favour.

The essential requirement of gift is that the same should be given voluntarily and without any consideration.

There is nothing on record to suggest that there has been handing over of possession and acceptance of gift as required in law. In the absence of a valid deed of gift, the title of the property cannot be transferred.

In view of the above, the submission of the Municipality that the land in question was voluntary gifted by the petitioner cannot be accepted by the Court.

The Municipality is, accordingly, directed to return and hand over possession of the subject plot of land to the petitioner at the earliest.

In the event the Municipality requires the land in question, it will be open for the Municipality to initiate proceeding for acquisition of the same in accordance with law subject to payment of adequate compensation.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)