

06.09.2023
rc/ct.no.10
Item No.08

WPA No. 2623 of 2023
Smt. Indrani Basu
Versus
The State of West Bengal & Ors.

Mr. Bhudeb Bhattacharyya
Mr. Sugato Sankar Roy ...for the petitioner

Mr. Soumitra Bandyopadhyay
Mr. Priyabrata Batabyalfor the State

Mr. Sibabrata Mitra
... Respondent No. 4 (in person) through V.C.

The primary grievance of the petitioner is that though the respondent no. 4 who was allotted the plot in question by the Government on lease for a period of 999 years is inclined to transfer a share of the property in favour of the petitioner being undivided 50.521% along with undivided portion of the construction standing thereon, the Land Manager being the 3rd respondent herein, has refused to sign the deed of assignment on the ground that the clause in the deed of assignment does not tally with that of the deed of lease.

It is not in dispute that the original deed of lease executed in favour of the 4th respondent does not contain any clause indicating plot number CL-124 as a shop allowable plot. In the deed of assignment proposed to be executed in favour of the petitioner, the plot has been mentioned as a shop allowable plot. The said difference has been pointed out by the Land Manager.

It is submitted on behalf of the State respondents that the 4th respondent may approach the 3rd respondent for rectification of the original deed in order to settle the anomaly.

Learned counsel for the petitioner also submits that in the proforma made over by the 3rd respondent the schedule of the property is ambiguous and the plot of land leased out as well as the construction subsequently made therein along with portion of the share of land and structure intended to be transferred should be depicted in the deed of assignment in separate schedules in order to give a clear picture of the same.

Learned counsel for the petitioner agrees that the 4th respondent shall approach the 3rd respondent for rectification of the original deed of lease.

In view of the above, the writ petition is disposed of with liberty to the 4th respondent to submit an application before the 3rd respondent for rectification of the original deed of lease executed in his favour to the extent that the leased land be recorded as shop allowable.

The schedule of the deed of assignment should indicate the details of the property proposed to be transferred.

The entire exercise is expected to be completed preferably within September 30, 2023 upon affording an opportunity of hearing to the 4th respondent as well as the petitioner, in accordance with law.

The decision taken by the authority shall be communicated to the petitioner within a week thereof.

With the above observation and direction this writ petition being WPA No. 2623 of 2023 is disposed of.

There shall, however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)