

11 12.04.2023
RP Ct. No. 01
AN

MAT 373 of 2023
With
IA No. CAN 1 of 2023
Smt. Reba Roy
Vs.
State of West Bengal & Ors.

Mr. Tanmay Mukherjee
Mr. Aditya Sen
Mr. K.R. Ahmed

... For the Appellant

Mr. Nilotpal Chatterjee
Mr. Amrita Lal Chatterjee

... For the State

1. Heard learned counsel for all the parties at length.

2. This intra-Court appeal is directed against the order dated 08.02.2023 passed in WPA 1006 of 2023. The writ petition was filed challenging an order passed by the authorities rejecting the request made by the appellant for allotment of a flat bearing no.S-3. The order came to be passed pursuant to a direction issued in the writ petition filed by the appellant in WPA 20061 of 2022 dated 11.10.2022 whereby a direction was issued to the authorities to consider the request of the appellant for allotment of flat no.S-3 in her favour on merits and in accordance with law. Admittedly, flats have been allotted under a scheme formulated by the government for rehabilitation of the refugees. The petitioner's husband has been allotted a flat bearing no.S-5 and the petitioner's

husband's brother was allotted flat nos.S-3 and S-4. The petitioner's husband's brother surrendered the flat no.S-3 and requested the authority to allot flat no.S-4 in favour of his sister Smt. Sudipta Roy. This surrender was accepted by the authorities as early as on 26th July, 1993. Thereafter, flat no.S-4 was allotted to the petitioner's husband's sister. Thus, as on date, the petitioner's husband has got allotment of one flat bearing no.S-5 and the petitioner's husband's sister has been allotted flat no.S-4 and flat no.S-3 has been surrendered to the government. Therefore, the authorities having found the writ petitioner to be in unlawful possession has initiated ejection proceeding against the appellant. The facts clearly show that the allotment of flats is pursuant to a scheme formulated by the Government for rehabilitation. The petitioner's husband has been recognized as a person who is entitled to be rehabilitated and has been allotted flat no.S-5. The petitioner cannot now seek for a fresh allotment in her individual name and no vested right has been accrued in favour of the petitioner, more so, when flat no.S-3 has been surrendered to the Government and the occupation of the petitioner of the said flat was not recognized by the authorities and was not legal.

3. Thus, we find that the learned Single Bench rightly declined to grant any relief as sought for by the appellant.

4. In the result, the appeal fails and is **dismissed**. Consequently, the connected application also stands dismissed.

(T. S. Sivagnanam)
Acting Chief Justice

(Hiranmay Bhattacharyya, J.)