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Ct No 2023
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AGM

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

**WPA 5148 of 2022
With
CAN 1 of 2023**

**Bikramjit Das & Anr.
Vs
The State of West Bengal & Ors.**

**Mr. Pankaj Halder
Mr. Sanatan Panja
Mr. Samarjit Balial
Mr. Tapas Manna ... For the petitioners.**

**Mr. N. C. Bihani
Ms. P. B. Bihani
Mr. Soumya Mukherjee
... For the Private respondent nos. 8 to 10.**

**Mr. Tapas Kumar Adhikari
Ms. A. Jayshree ... For the State.**

**Mr. Samrat Chowdhury
Mr. Nimai Chandra Konar
Mr. Sandip Das ... for the applicants.**

It has been submitted by the learned advocate appearing on behalf of the petitioners that the order dated 12th June, 2023 has been incorrectly recorded. The said order ought to have been restricted only to WPA 5146 of 2022 (Bikramjit Das & Anr. vs. The State of West Bengal & Ors.).

In view of such submission, the order dated 12th June, 2023 passed in WPA 5148 of 2022 stands recalled.

The application for addition of party filed in connection with the instant writ petition, CAN 1 of 2023, ought to have been filed in connection with WPA 5146 of 2023. The supplementary affidavit in connection with CAN 1 of 2023 ought to have been filed in connection with

WPA 5146 of 2022.

The connecting applications CAN 1 of 2023 and the supplementary affidavit filed in connection with CAN 1 of 2023 be detagged from the records of WPA 5148 of 2022 and be placed with the records of WPA 5146 of 2022.

The petitioners in WPA 5148 of 2022 pray for correction of the mutation in respect of the premises no. 124A, Dr. S. C. Banerjee Road.

The petitioners claim that they are the legal heirs of the recorded owner of the subject premises.

The Corporation erroneously recorded the name of the private respondent as owner of the subject premises. The petitioners filed objection before the Corporation and alleges that the same has not been disposed of till date.

None appears on behalf of the private respondent.

The postal envelope addressed to the private respondent has come back unserved with the postal endorsement 'Insufficient Address'.

The affidavit-of-service is taken on record.

Learned advocate representing the KMC submits, upon instruction that, the mutation in question was effected on the basis of the documents produced before the respondent authority long back in 1991.

Be that as it may, as an objection has been raised by the petitioners and the same is pending consideration before the respondent authority for a considerable period of time, accordingly, without going into the merits of the claim of the petitioners, the instant writ petition is

disposed of by directing the concerned Assessor Collector, KMC to consider and dispose of the representation filed by the petitioners in March 2022 in accordance with law after giving reasonable opportunity of hearing to all the necessary parties and pass a reasoned order in the matter.

Final order shall be passed at the earliest but positively within a period of four months from the date of communication of this order.

It is made clear that this Court has not entered into the merits of the claim of the petitioners and all points are left open to be decided at the time of consideration of representation of the petitioners.

It goes without saying that mutation is only with regard to identifying the person primarily liable to pay tax and the recording of the Corporation in no way decides the ownership of the parties. The ownership of the parties can be decided relying upon the title deed(s).

The aforesaid respondent is restrained from entering into and deciding the ownership of the property. The said respondent is also restrained from entering into or deciding any disputed questions relating to right, title and interest of the subject property.

As regards declaration of ownership of the property in question, it will be open for the parties to approach the competent civil court for remedy.

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.)