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27-04-2023
debajyoti
(Ct. no.06)

MAT 484 of 2023
+
IA NO:CAN/1/2023
+
CAN/2/2023

Saurav Kumar Dutt
Vs.
State of West Bengal & Ors.

Ms. Sreyanshi Majumdar

... For the Appellant.

Mr. Jaharlal De,
Mr. Srikanta Paul

... For the State.

Mr. Biswajit Mukherjee,
Ms. Piyali Sengupta

... For K.M.C.

Re : CAN 1 of 2023

This is an application for condonation of delay of 191 days (as per report of the Additional Stamp Reporter) in filing the appeal. Causes shown being sufficient, the delay is condoned.

The application being CAN 1 of 2023 is, thus, allowed.

Re : MAT/484/2023 & CAN/2/2023

By consent of the parties, the appeal and the application are taken up together for hearing.

A judgment and order dated August 08, 2022 whereby the appellant's writ petition being WPA 2964 of 2022 was disposed of, is the subject matter of challenge in this appeal.

The appellant approached the learned Single Judge claiming that the property at 13, Raja Raj Ballav Street, Kolkata, has been wrongly mutated in the names of Indra Nath Paul and Chandra Nath Paul as owners. He said that he was the legal heir of the settlor of the private trust to which the property belongs. He submitted that he also has a share in the property. His further grievance was that although he had made a representation before the Kolkata Municipal Corporation on January 06, 2022, through his learned advocate, the same has not been addressed by the Corporation.

The learned Judge noted that mutation of the property in question had been made in the names of Indra Nath Paul and Chandra Nath Paul way back on October 08, 2013. The learned Judge clarified that mutation does not confer title or ownership. The learned Judge disposed of the writ petition by observing that “recording the names of Indra Nath Paul and Chandra Nath Paul in the Letter of Intimation for unpaid property tax bill issued by the Kolkata Municipal Corporation is not the document in respect of title of ownership of the aforesaid two persons”.

Being aggrieved, the writ petitioner is before us by way of this appeal.

We see no apparent infirmity in the order under appeal. Questions of title cannot be decided by the writ court. However, the appellant appears to have made a representation, through his learned advocate, to Kolkata Municipal Corporation. The appellant apparently wants the mutation in the names of Indra

Nath Paul and Chandra Nath Paul to be rescinded/cancelled.

We notice that the representation dated January 06, 2022, made by the appellant through his learned advocate, is addressed to the Municipal Commissioner, the Chief Manager Revenue (North) and the Assessee Collector (North). We direct the Chief Manager Revenue (North), Kolkata Municipal Corporation, being the respondent no.3 herein, to dispose of the said representation of the appellant, in accordance with law, by a reasoned order, within a period of eight weeks from the date of communication of this order to him, after giving an opportunity of hearing to the appellant or his authorized representative, as also the private respondents herein or their authorized representatives and any other concerned person as the officer may deem necessary. The decision taken by the Chief Manager Revenue (North) shall be communicated to the concerned parties within a week from the date of the decision.

We have not gone into the merits of the grievance of the appellant/writ petitioner. The Chief Manager Revenue (North) shall take an independent informed decision in the matter in accordance with law.

The order of the learned Single Judge is modified to the above extent. MAT 484 of 2023 and CAN 2 of 2023 are disposed of accordingly.

Affidavits not having been called for, the allegations in the stay application shall be deemed not to have been admitted by the respondents.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of all necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)