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jdt.

19.07.2023
jb.

W.P.A. 7784 of 2023
(Shibani Das vs. State of West Bengal & Ors.)

Mr. Debasish Chattopadhyay
Mr. Lokenath Paul
Mr. Tirthankar Basu
.... For the Petitioner

Mr. Chandi Charan De
Mr. Anirban Sarkar
.... For the State

Affidavit of service filed on behalf of the petitioner is taken on record.

None appears for the 3rd respondent despite service.

It is contended on behalf of the petitioner that the plot in question was allotted to one Dipak Kumar Dutta by virtue of an agreement for lease executed on 15th June, 1967 by the Estate Manager, Development and Planning Department, Government of West Bengal and possession of the plot was made over to the lessee on 17th May, 1968. Prior to the execution of the deed of lease, the lessee expired upon executing a will in respect of the plot in question in favour of the petitioner and the petitioner obtained probate of the said will. The petitioner applied before the concerned authority for execution and registration of the deed of lease in respect of the plot in question in her favour and also mutating her name in respect of the said plot. Several representations submitted by the petitioner before the concerned authority in this regard fell on deaf ears. The petitioner prays for a direction upon the authority to execute and register the deed

of lease in her favour and mutate her name in respect of the plot at the earliest.

Learned counsel for the petitioner refers to an order passed by a co-ordinate Bench of this Court in the similar matter on 29th August, 2018 in W.P. 12222 (W) of 2018 wherein in a similar fact situation as in the present case, the Court directed the Estate Manager, Kalyani to consider the application of the petitioner afresh and granted liberty to the petitioner to pray for execution and registration of the lease deed in respect of the plot which was the subject matter of the said writ petition. The orders refusing the prayer of the petitioner were turned down by the learned Court.

Learned counsel for the petitioner seeks a direction upon the concerned authority to consider the representation submitted by the petitioner on 27th January, 2023 in the light of the observation made by the co-ordinate Bench in the order passed on 29th August, 2018

Upon consideration of the submission made on behalf of the parties and material on record, this Court is inclined to hold that since the petitioner has stepped into the shoes of the erstwhile lessee by virtue of the probated will in her favour, the mere fact that no deed of lease was executed in favour of the erstwhile lessee during his life time cannot and does not stand in the way of the authority in executing and registering such deed in favour of the petitioner at present.

In view of the above, the writ petition is disposed of directing the concerned authority being the 2nd respondent herein to consider and dispose of the representation submitted by the petitioner dated 27th January, 2023 in the

light of the observation made by this Court in the order passed on 29th August, 2018 in W.P. 12222(W) of 2018 within two months from the date of communication of this order upon affording reasonable opportunity of hearing to the petitioner, in accordance with law. In the event the representation is decided in favour of the petitioner, the concerned authority shall take all consequential steps thereto within a month thereof.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)