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Ct 2023
No24
AGM

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

WPA 10119 of 2021

**Gajanand Marwari @ Agarwal & Ors.
Vs
The Kolkata Municipal Corporation & Ors.**

**Mr. Sanat Kumar Dutta
Mr. Niladri Sekhar Ghosh
... For the petitioners.**

The property in question, i.e. premises nos. 57, Monoranjan Roychowdhury Road, Kolkata 700017 has been declared as a thika property by the Controller, Kolkata Thika Tenancy by order dated 19th December, 2016. The names of the thika tenants are reflected in the said order.

The Deputy Controller, Kolkata Thika Tenancy by a communication dated 02.06.2017 intimated the Chief Manager Revenue (South) mentioning that the Thika Controller accepted the persons mentioning therein as joint thika tenants.

The grievance of the petitioners is that till date the property is yet to be mutated in their names by the KMC.

The Corporation by a communicated dated 18th March, 2019 directed the petitioners to produce copy of the order passed by the learned Wakf Tribunal regarding the claim of Kolkata Thika Tenancy. The petitioners categorically contend that the property is a thika property and the Wakf does not play any role in the matter.

None represents the KMC.

Affidavit of service filed today in Court be kept with the records.

From the documents annexed to the writ petition, it is evidently clear that there is a declaration of the property being thika by the Controller, Kolkata Thika Tenancy. There is a further communication by the Deputy Controller, Kolkata Thika Tenancy to the Chief Manager Revenue (South) for mutation of the property in favour of the joint thika tenants. There is no iota of evidence that the property is a wakf property and accordingly, the question of any order being passed by the Wakf Tribunal in connection with the said property cannot arise at all.

In view of the above, the communication dated 18.03.2019 is set aside and quashed.

The Chief Manager Revenue (South) being the respondent no. 6 is directed to take necessary steps for mutation of the subject property in favour of the thika tenants in terms of the direction passed by the Controller, Kolkata Thika Tenancy vide order dated 19th December, 2016 subject to the compliance of the necessary formalities.

The aforesaid respondent shall intimate the petitioners the formalities that are required to be complied for effecting the mutation.

Steps shall be taken in the matter at the earliest but positively within a period of sixteen weeks from the date of communication of this order.

Learned advocate for the petitioners is directed to forward a copy of the order dated 19th December, 2016, the communication dated 2nd June, 2017 to the aforesaid respondent at the time of communicating the order to the Court.

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.)