

S/L 2
26.6.2023
Court No.26
SD

WPA 8068 of 2010

Dr. Tushar Kanti Saha
Vs.
The State of West Bengal & Ors.

Md. Shahjahan Hossain
Ms. Sanjida Sultana

...for the Petitioner.

Mr. Chayan Gupta
Mr. Sandip Dasgupta
Mr. Saaqib Siddiqui

...for the Respondent Nos.2-5.

I have heard counsel appearing on behalf of the parties.

The factual matrix of the case is that allotment of a plot of land was made in the name of the petitioner's mother in the year 2001. At the time of allotment being made, the petitioner's mother had already expired, and accordingly, the petitioner made an application for substituting the petitioner's name before the authorities. The authorities sought for the legal heir succession certificate from the petitioner. The petitioner initially provided affidavit of the legal heir which was not accepted by the respondent authority. There was a time lag between the communication which had taken this matter to the year 2009. Thereafter, the petitioner provided the documents as required by the respondent authorities and the authorities agreed to transfer of name upon the documents provided by the petitioner.

However, a penalty of 17% interest was imposed upon the petitioner in the year 2009 retrospectively. The petitioner immediately filed a writ petition before this Court challenging the imposition of the penalty.

Upon consideration of the materials before me, I find that both the parties were at fault and the delay in allotment/acceptance of the documents provided by the petitioner cannot be attributed solely to one of the parties.

Balancing the equities, this Court is of the opinion that the allotment should be made by the authorities in the name of the petitioner on the following conditions:-

- a) There shall be no interest payable till the year 2009;
- b) From January 1, 2010 till the petitioner makes the entire payment of the dues, interest shall be payable at the rate of 10% per annum on the outstanding dues with simple interest; and
- c) I make it clear that the entire payment along with interest should be made within a period of three months from date.

I make it clear that this order is being passed in peculiar facts and circumstances of the case and shall not be treated as a precedent.

With the above observations, this writ petition is disposed of.

All parties are to act on the basis of the server copy of this order.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shekhar B. Saraf, J.)