

ML- 31.08.2023
142 Ct.15
rkd

W.P.A. 9682 of 2018

Sunil Malakar

-vs-

The State of West Bengal & Ors.

Mr. Tulshi das Ray,
Mr. Tapan Ray,
Mr. Tirthankar Roy

....for the petitioner.

Mr. Soumya Banerjee,
Ms. Sucheta Banerjee

....for the respondent no.3.

Ms. Sima Adhikari,
Ms. Kakali Naskar

....for the State.

Petitioner has voiced grievance by instituting this writ petition against the communication dated 27th March, 2018 whereby it was intimated that based on one unregistered deed of gift and an affidavit of consent executed by one Namita Malakar name of respondent no.4 has been mutated in the Assessment Register of Kamarhati Municipality.

Mr. Ray, learned advocate representing the petitioner submits that unregistered deed of gift has no value therefore upon giving credence to such unregistered deed of gift and an affidavit of consent affirmed by one Namita Malakar the concerned authority of the Municipality ought not have allowed mutation in favour of the respondent no.4.

The learned advocate representing Kamahati Municipality has made an endeavour to defend the decision taken by the Municipality with regard to mutating the name of respondent no.4.

It has further been submitted by the Municipality that name of the respondent no.4 has not been mutated as owner but as occupier and in the same breath it has also been submitted that mere mutation of name of a person is not indicative of having title over the property in question.

Having considered the submissions made on behalf of the learned advocates representing the petitioner and the Municipality it appears that a decision has already been taken by the concerned authority of the Municipality to mutate the name of the respondent no.4 based on one unregistered deed of gift and an affidavit of consent affirmed by one Namita Malakar.

This Court has made a query to the learned advocate representing the municipality as to the basis of taking decision to mutate the name of the respondent no.4 in consideration of the aforesaid unregistered deed of gift and an affidavit of consent, however this Court does not get any satisfactory reply. However, mutation in favour of a person does not vindicate the title of that person

over the property in question. It only authorises the person concerned whose name has been mutated to pay municipal taxes. Therefore the petitioner shall have the right to obtain necessary declaration relating to his title over the property in question from a civil Court by instituting appropriate proceeding.

It is made clear that mutation made in favour of the respondent no.4 does not create any hindrance so far petitioner is concerned in taking appropriate legal steps in order to establish his title over the property in question.

With the aforesaid direction the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)