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Ct No
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AGM

16.05
2023

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

WPA 10592 of 2019

**Smt. Maitreyee Dutta
Vs
Baranagar Municipality & Ors.**

Mr. Pradyot Kumar Nandi
Mr. Satyadeep Sarkar

... For the Petitioner.

Mr. Ranajit Chatterjee
Mr. Avijit Dey

... For the Municipality.

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

The petitioner is aggrieved by the order dated February 26, 2019 passed by the Executive Officer, Baranagar Municipality rejecting her prayer for mutation.

The order in question is a detailed one. The facts and figures in connection with the land in question are mentioned therein. The municipality was of the opinion that on physical measurement, the quantum of the land, which the father of the petitioner purchased, was less than the land, which the father of the petitioner sold and thereafter gifted to the petitioner being his daughter.

The impugned order records that at the time of hearing, the father of the petitioner admitted in presence of all the persons present in the hearing that, the plot of land in question was totally vacant and he himself made the boundary wall in the absence of the seller. The

Municipality not being satisfied with the title of the father of the petitioner refused to mutate the property in favour of the petitioner. It appears that the impugned order was passed upon perusal of all the materials placed before the municipality.

The father of the petitioner is still alive. He has not been impleaded as party in the instant writ petition. The objectors, who objected the mutation in favour of the petitioner were later on impleaded as party under the direction passed by the Court and the copy of the writ petition was served upon them.

None appears to oppose the prayer of the petitioner.

On perusal of the documents annexed to the writ petition, the Court is not satisfied with the submission made on behalf of the petitioner with regard to the manner in which she derived title in respect of the subject property.

The property in question was gifted to the petitioner by her father. The Municipality has questioned the title of the donor of the property. Remanding the matter back to the municipality will not serve any purpose.

The Municipality will not be the appropriate authority to decide the right, title and interest of the parties in connection to the subject plot of land.

In view of the above, no relief can be granted to the petitioner in this case.

The writ petition fails and hereby dismissed.

Dismissal of the writ petition will however not stand

in the way of the petitioner from approaching the appropriate forum for declaration of right, title and interest in respect of the subject property in accordance with law, if so advised.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)