<u>IN THE HIGH COURT AT CALCUTTA</u>
Constitutional Writ Jurisdiction
<u>APPELLATE SIDE</u>

<u>BEFORE:</u>

THE HON'BLE JUSTICE M. V. MURALIDARAN

W.P.A.No.11898 of 2019
Narayan Mitra & Anr.
Vs
The State of West Bengal & Ors.

Mr. Nilanjan Adhikari -------- for the Petitioners

Hearing Concluded On : 13.12.2023

Judgment On : 22.12.2023

<u>M. V. Muralidaran, J.</u>

We have heard Mr.Adhikari, learned counsel for the petitioners. Despite service of notice, there is no representation on behalf of the respondents.

2. The petitioners have filed this writ petition seeking a mandamus directing the respondents to assess the market value of the sale deed by considering the land details and the nature of the land mentioned in the schedule and the sketch map of the sale deed and not by the erroneous entry in the land details column of the e-assessment slip and to allow the petitioners and their vendors to execute the sale deed and to assess the stamp duty and registration

fees upon the same and complete the registration process considering the online payment already made.

3. The facts leading to the filing of this writ petition are as under: A sale deed was executed and registered by the owners of the land measuring about 42 Decimals equal to more or less 1 Bigha 5 Kathas 6 Chhataks and 25.2 sq.ft situated at L.R. Dag No.1835, 1848 and 1849, L.R.Khaitan No.1556 and 1557, J.L.No.9, MouzaBirpara, Gram Panchayat – Parorpar, Police Station – Alipurduar – 736 121, in favour of the petitioners before the Additional Registrar of Assurances-IV, Kolkata/fifth respondent, through commission on 15.2.2019. As per the e-assessment slip submitted at the time of registration, the total registration fees and stamp duty was paid through e-challan.

4. It is stated that as per the schedule and sketch map of the sale deed, out of the total land in question, the land comprised in L.R. Dag Nos.1848 and 1835 is cultivatable land and there was no approach road and the other is Bastu land having 8 feet wide approach road and the stamp duty and

registration fees was assessed and paid as per the nature of the land. Subsequently, the petitioners noticed that in the web-generated e-assessment form it was wrongly stated that there was 8 feet wide approach road to the L.R.Dag Nos.1848 and 1835, which is contrary to the schedule and the sketch map of the sale deed.

5. As the details of the property in question were wrongly stated in the e-assessment slip, the petitioners sought rectification of the said particulars, as the petitioners will not be having proper right and title over the property because of the bona fide mistake. The petitioners forthwith preferred an appeal on 1.4.2019 before the Inspector General of Registration and Commissioner of Stamp Revenue. However, till date the said appeal was not considered. Hence, the petitioners have filed this writ petition.

6. The matter is of the year 2019. The respondents, despite service of notice, have not taken any steps to represent before this court and put forth their case.

7. The issue involved in this writ petition lies in a narrow compass.

8. The entire controversy revolves around the location of the 8 feet wide approach road. According to the petitioners, there is no approach road in L.R.Dag Nos.1848 and 1835, which is a cultivatable land. However, the web-generated e-assessment form indicated that the 8 feet wide approach road is situated in the said land. The stamp duty and registration fees were also assessed accordingly.

9. It is not in dispute that the petitioners already preferred an appeal on 1.4.2019 before the Inspector General of Registration and Commissioner of Stamp Revenue, however, the same has not been decided till date.

10. In the light of the above, we allow the writ petition with the following directions:

(i) The respondent authorities are directed to consider the appeal dated 1.4.2019 filed by the petitioners and assess the market value of the property based on the details specified in the schedule and the sketch map of the sale deed. The petitioners may submit a copy of the appeal along with a copy of this order to the competent authority within one week from the date of receipt of a copy of this order;

(ii) In case the respondents have any doubt regarding the veracity of the document or the classification of the land, it will be open to the respondent authorities to adhere to the relevant provisions of law and make a proper assessment of the market value of the land;

(iii) The petitioners shall be given an opportunity of hearing at the time of considering the appeal filed by them.

(iv) The entire exercise shall be completed by the respondent authorities within a period of four weeks from the date of furnishing of a copy of the appeal by the petitioners.

There will be no order as to costs.

(M. V. Muralidaran, J.)