

14.12.2023
Item No.28
Ct. No.5
CHC

F.M.A. 37 of 2022

Sukanya Dutt
Vs.
Asansol-Durgapur Development Authority & ors.

Mr. Pinaki Ranjan Chakraborti
...for the appellant

Mr. Sharanya Chatterjee,
Mr. A Ghosh
...for the respondent ADDA

The appeal is directed against an order dated August 2, 2021 passed in WPA 8279 of 2021.

By the impugned order, the learned Single Judge refused to intervene in the writ petition on the ground that, the relief sought for by the appellant was beyond the scope of the writ petition.

Learned advocate appearing for the appellant submits that the original allottee expired leaving behind a Will. The appellant is the adopted daughter of the original allottee. The appellant applied for mutation firstly, on the basis of the Will of the original allottee. Thereafter, the appellant approached the authorities for mutation on the basis of intestate succession. The authorities not doing anything, the appellant approached the Writ Court in which the impugned order was passed.

Learned advocate appearing for the authorities submits that, the authorities are not in a position to decide any right, title and interest in respect of the allotment. No document was put forward before the authorities to substantiate the claim of the Will and/or intestate succession.

Essentially, the appellant before us seeks to be substituted in place of the original allottee. Lease deed does not prohibit lease to be transferred by way of intestate succession.

Appellant originally tried to claim on the basis of the Will left behind by the original allottee. Will was not probated. Thereafter, appellant is presently seeking to claim substitution in place of the original allottee on the basis of intestate succession of the original allottee on the premise that the appellant is the adopted daughter of the original allottee.

In such circumstances, the authorities will hold a local inspection and find out who is in possession of the plot allotted. In the event, the authorities find that, appellant before us in possession and in the event, there is no other claim with regard to the substitution as claimed by the appellant, authorities will proceed to do so.

Let such exercise be completed within a period of six weeks from date. No doubt, the

authorities will afford the appellant a reasonable opportunity of hearing.

In such circumstances, the impugned order dated August 2, 2021 is set aside.

FMA 37 of 2022 (MAT 955 of 2021) is disposed of accordingly.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)