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Ct No 2023
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AGM

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

WPA 16882 of 2021

**Dipali Naskar
Vs
The Commissioner, Kolkata Municipal
Corporation & Ors**

Mr. Subir Banerjee,
Md. Hossain,
Mr. Shaunak Ghosh,
... For the Petitioner.

Mr. Biswajit Mukheerjee,
Ms. Tanushree Das Gupta,
... For the K.M.C.

Mr. Souri Ghosal,
Mr. Gourav Mukherjee,
... For the Intervenor.

Mr. Sanatan Ghosh,
Mr. Falguni Bandopadhyay,
... For the respondent No. 5.

The petitioner is aggrieved by the order dated 30th October, 2009 passed by the Deputy Assessor Collector-V, Tollygunge Tax Department, Kolkata Municipal Corporation whereby the said respondent cancelled the mutation of the premises no. 69A, Banerjee Para Lane. The said cancellation was done allegedly relying upon the judgment passed by the learned Additional District Judge, 5th Court, Alipore in Title Appeal No. 188 of 1995 pending between the parties.

Learned advocate for the petitioner contends that the impugned order is a non-speaking one. The learned Additional District Judge did not pass any order for

cancellation of the mutation. The respondent authority mis-read and mis-interpreted the order of the learned Court and cancelled the mutation.

Learned advocate representing the Kolkata Municipal Corporation places the order passed by the learned Additional District Judge, 5th Court, Alipore. It has been submitted that the respondent authority was *ad idem* with the view expressed by the learned Additional District Judge, and accordingly thought it fit to cancel the mutation of the subject premises.

It has however been submitted that mutation will neither create nor extinguish title of either of the parties and the rights of the parties will be decided by the learned Court taking up the matter.

Learned advocate representing the private respondent opposes the prayer of the petitioner.

According to the provisions of law, mutation is meant for the purpose of identifying the person primarily liable for payment of tax. Mutation neither creates nor extinguishes title of any of the parties to the property.

The respondent authority interpreted the order passed by the Additional District Judge and accepted the views expressed by the learned Judge to cancel the order of mutation.

At this stage, I am of the opinion that there is no requirement to interfere with the impugned order.

It is however recorded that the said order will not create any equity in favour of any of the parties to the pending suit.

The learned Court below shall decide the suit on merits without being influenced by the mutation that has been effected in favour of a party.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)