

21.09.2023
Sl. No.479(DL)
srm

CPAN 897 of 2022
In
W.P.A. No. 2519 of 2022
Manjushah Chakraborty & Anr.
Versus
Nilimesh Roy Chowdhury & Anr.

Ms. Alotriya Mukherjee,
Mr. Ankit Agarwal

...for the Applicants.

Mr. Tapan Kumamr Rakshit

...for the Alleged Contemnors.

In this contempt application, the applicants/petitioners have alleged wilful violation of the order dated April 4, 2022 passed by this Court in WPA 2519 of 2022. The order of this Court is quoted below:

“Under such circumstances, this Court is of the opinion, that unless there are rival claims in respect of the property to those of the petitioners or there are other irregularities in the mutation application, the mutation must be effected in accordance with law. If there are deficiencies in the documents or in the application which was to be scanned and uploaded, the municipality shall intimate the petitioners the irregularities in the application and/or the deficiencies in the documents. If the petitioners can furnish those documents and cure the irregularities, the competent authority of the Kalyani municipality shall proceed with the mutation case, in accordance with law, upon granting an opportunity of hearing to the petitioners. A reasoned order shall be passed and communicated to all concerned. If it is found that there are other rival claimants, in such case, the municipality shall hear them in accordance with law. If the occasion so arises, a representative of the Estate Manager, Kalyni Urban Development and Municipal Affairs Department, Government of West Bengal, may be consulted with regard to such transfer and the claim of the petitioners.

Mutation neither creates nor extinguishes title. It is only for the purpose of ascertaining and identifying the persons who are liable to pay the tax in respect of the property in question. Under such circumstances, the municipality need not go on a roving enquiry to find out whether there are other claimants or not, unless records and the documents indicate that third parties are required to be heard in the proceeding. Otherwise, if the documents as required are furnished and all requirements for mutation are met, the municipality shall proceed to grant mutation in accordance with law. Such order shall be communicated to the petitioners. In case of denial, reasons shall be disclosed.

The entire exercise shall be completed within a period of four months from date of communication of this order.”

The affidavit-of-compliance filed by the Executive Officer, Kalyani Municipality, the alleged contemnor No.2, for himself and upon being authorised by the alleged contemnor No.1 indicates that several letters were written to the applicant on December 23, 2021, May 17, 2022, January 21, 2023, March 3, 2023 and May 8, 2023 indicating the deficiencies in the online application for e-mutation. The deficiencies have been elaborately discussed in Annexure ‘B’ of the compliance report.

The learned Advocate for the applicants submits that the applicants are willing to upload all the documents in the website and also meet the alleged contemnors for a hearing.

Under such circumstances, this Court does not find any flagrant violation of the order of this Court. The contempt application is disposed of. The contempt proceedings are dropped.

This order shall not prevent the applicants from uploading the necessary documents as required by the Kalyani Municipality, seeking e-mutation. If the applicants are unable to upload such documents, they are at liberty to approach the municipality for a hearing on such issues by filing necessary documents. If the applicants are aggrieved by the nature of documents sought for by the alleged contemnors, they are at liberty to challenge the said letter being Annexure 'B' to the compliance report, by filing a separate writ petition.

(Shampa Sarkar, J.)