

40. 26.04.2023
bd. Ct.15

W.P.A. 19273 of 2015
IA No. CAN 1 of 2023

Smt. Mili Dutta & Anr.

-vs-

The State of West Bengal & Ors.

Mr. Bhudeb Bhattacharya
Mr. Sugata Shankar Roy ... for the petitioner

Mr. Joyak Kumar Gupta ... for the State

Mr. Kushal Chatterjee
Mr. S.Mitra
Mr. D. Chowdhury
... for the respondent
nos. 6 & 7.

Mr. Biswajit Mukherjee
Mr. Gopal Chandra Das ... for the KMC.

The writ petition is presented, inter alia, laying challenge against the order of the Controller, Kolkata Thika Tenancy dated 16th April, 2012 as well as denial of the concerned authorities of Kolkata Municipal Corporation to mutate the names of the petitioners in respect of premises no. 23M,Radha Madhab Dutta Garden Lane, Kolkata-700 010.

This court has heard the learned advocates representing the petitioners, State respondents, private respondents and the KMC at length.

Learned advocate for the respondent nos. 6 and 7 has submitted that the respondent no. 7 has died in the meantime. Accordingly, name of the

respondent no. 7 be expunged from the array of the respondents in the cause-title of the writ petition.

On consideration of the impugned order of Controller, Kolkata Thika Tenancy dated 16th April, 2012 it appears that the said order is required to be challenged before the West Bengal Land Reforms and Tenancy Tribunal by filing an original application which has not been done in the present case. The petitioners, have chosen to approach the High Court seeking to invoke writ jurisdiction under Article 226 of the Constitution of India which is impermissible.

However, on perusal of interim order passed by the coordinate Bench at the time of admission of the writ petition it appears that direction has been given on 15th November, 2016 directing that the mutation which has been done in favour of the private respondents would be treated as temporary till disposal of the writ petition.

On consideration of the issue involved in this writ petition it is appropriate for the petitioners to approach the Tribunal. This Court directs that the interim order passed on 15th November, 2016 shall continue for a period of eight weeks from date. Petitioners shall be at liberty to file original application before the West Bengal Land Reforms & Tenancy Tribunal within a period of eight weeks from date. In the event original application is filed before the Tribunal challenging the order of the Controller, Kolkata Thika Tenancy, dated 16th April, 2012, the interim order passed by the coordinate

Bench on 15th November, 2016 shall continue till disposal of the original application.

However, it is made clear, if petitioners fail to approach the Tribunal by filing the original application within the aforesaid time the interim order passed by this Court on 15th November, 2016 shall stand vacated without any further reference to this Court.

This Court has not expressed any view on merit of the order passed by the Thika Controller and all issues are kept open.

Accordingly, the writ petition stands disposed of. Connected application also stands disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)