

AD-15
Ct No.09
29.11.2023
TN

WPA No. 21958 of 2023

Sri Dipti Ray Chaudhuri and others
Vs.
The State of West Bengal and others

Mr. Rudra Jyoti Bhattacharjee,
Ms. Sayani Roy Chowdhury,
Ms. Debjani Ghosal,
Mr. Avirup Roy Sanyal

.... for the petitioners

1. Despite service, none appears for the respondents at the time of call.
2. The affidavit-of-service and the receipt of notice of mentioning be kept on record.
3. The petitioner no.3, who is an octogenarian, executed a gift deed in favour of the petitioner nos.1 and 2 in which, in the Schedule, there was a minor error regarding the Mouza although the Mouza was correctly mentioned in the other portions of the gift deed.
4. Accordingly, a deed of correction in the form of a deed of declaration was presented for registration before the respondent no.6-authority. However, the said authority, without recording any cogent reason whatsoever, has returned the document and is not accepting the same for the purpose of registration.

5. Learned counsel for the petitioner relies on Section 71 of the Registration Act, 1908 which stipulates that every Sub-Registrar refusing to register a document, except on the ground that the property to which it relates is not situate within his sub-district, shall make an order of refusal and record his reasons for such order in his Book No. 2 and endorse the words 'registration refused' on the document.
6. It is further submitted that in the present context, there cannot be any conceivable reason of the registrar refusing to register the deed of declaration.
7. There is substance in such contention.
8. Accordingly, WPA No. 21958 of 2023 is allowed, thereby directing the respondent no.6 to accept the deed of declaration presented for registration by the petitioners before the said authority (Annexure P3 at page-35 of the writ petition). Upon such acceptance, in the event the respondent no. 6 is of the opinion that registration is required to be refused on some cogent legal ground, the respondent no.6 shall comply with Section 71 of the Registration Act, and give proper reasons for such rejection.

- 9.** In the event there is no such reason, the respondent no.6 shall proceed in accordance with law to register the said document, subject to compliance of all formalities by the petitioners. Such exercise shall be concluded by the respondent no. 6 within three weeks from the date of communication of this order to the respondent no. 6 by acting on a server copy of this order without insisting upon prior production of a certified copy thereof.
- 10.** There will be no order as to costs.
- 11.** Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)