

10. 11.05.2023
Ct.15

bd.

WPA 23819 of 2012

Pradip Dasgupta & Ors.

-vs-

North Dum Dum Municipality & Ors.

Mr. Tulsidas Ray

Ms. Alina Mondal

... for the petitioners.

Ms. Susmita Pal

... for the respondent no.3.

Mr. Nemai Chandra Betal

Mr. Suresh Kr. Sahoo

... for the respondent no.6.

Mr. Sudarshan Ray

Mr. Debayan Ghosh

Mr. D. Majumder

... for the Municipality.

Petitioners have questioned the validity of the order dated 26th July, 2012 passed by the Chairman, North Dum Dum Municipality whereby decision has been taken to incorporate the names of heirs of Baccha Prasad Singh and Babu Gopal Singh, in the assessment registrar in place and stead of Radhika Ranjan Dasgupta.

Mr. Roy, learned advocate, representing the petitioners submits that the petitioners are the heirs of Radhika Ranjan Dasgupta, who are the owners of the land in question and in support of such contention reliance has been placed on page 48 of the writ petition.

According to the petitioners, page 48 of the

writ petition depicts that Radhika Ranjan Dasgupta, is the recorded owner of the land in question since name of Radhika Ranjan Dasgupta was recorded in the record of rights. It has also been contended upon placing reliance on the application for mutation made by Ramji Singh and Sona Devi, that signature of Sona Devi in the application for mutation at page 75 of the writ petition is not present.

According to the petitioners, erroneous application made by Ramji Singh and Sona Devi, ought not to have been considered by the North Dumdum Municipality and no decision should have been taken relating to mutation of the land in question which ultimately went in favour of the heirs of Baccha Prasad Singh and Babu Gopal Singh. Petitioners in support of their contentions have submitted that they are having the right, title and interest over the land in question but they are not able to place before this Court any document which can be considered in order to adjudicate the title of the petitioners over the said land. Furthermore, it has been submitted that claiming *inter se* right of the parties over the land in question second appeal is pending which will ultimately decide the fate of the petitioners and the private respondents.

Learned advocate representing North Dumdum Municipality has made submission defending the decision taken by the Chairman of Municipality dated 26th July, 2012 whereby names of heirs of Baccha Prasad Singh and Babu Gopal

Singh, have been mutated in the assessment records maintained in the office of the Municipality. It has also been submitted on behalf of Municipality that based on the document and the deeds which were produced by the parties before the concerned authorities of the Municipality the decision has been taken in favour of the heirs of Baccha Prasad Singh and Babu Gopal Singh. It has further been contended that nothing has been shown on behalf of the petitioners to vindicate their claims over the land in question which ultimately restrained the municipality from passing order relating to mutation thereby keeping the name of Radhika Ranjan Dasgupta or his heirs as recorded owner in the assessment registrar.

Mr. Betal, learned advocate, representing the respondent no. 6, has submitted that previously writ petition was filed by the heirs of Radhika Ranjan Dasgupta being WPA 20392 of 2008 which was disposed of vide order dated 5th May, 2012 directing the municipality to serve the copies of the application made by the private respondents seeking mutation to the petitioners. It was also directed by the coordinate Bench to hear the petitioners as well as private respondents before taking decision on mutation. It has also been contended on behalf of respondent no. 6 that the Chairman of North Dumdum Municipality has taken steps pursuant to the order passed by the coordinate Bench dated 5th May, 2012 and decision has been taken on 26th July, 2012.

Having considered the contentions raised on

behalf of the parties in relation to the order dated 26th July, 2012 and in consideration of the pendency of civil proceeding claiming *inter-se* rights of the parties over the land in question this Court at the present moment is restraining itself from deciding the validity and legality of the order passed by the Chairman of North Dumdum Municipality dated 26th July, 2012. Any decision taken by this Court in order to decide the issue relating to mutation would have adverse effect on the pending civil proceeding before the Court as a result thereof adjudication which is invited by the petitioners by instituting this writ petition is renounced.

However, it is made clear that the decision taken by the Chairman of North Dumdum Municipality vide order dated 26th July, 2012 on mutation in connection with the land in question shall be subject to the final result of the civil proceeding pending before the appropriate court.

With the aforesaid observations the writ petition stands disposed of. However, 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.)