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31.01.2023
d.p.

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

W.P.A 27999 of 2022

**Protap Chunder Mazoomdar Memorial
Trust & Ors.
-versus
The State of West Bengal & Ors.**

**Mr. Md. Shafiul Alam.
...For the Petitioners.**

**Mr. Biswajit Mukherjee,
Ms. Tanushree Dasgupta.
...For KMC.**

Affidavit-of-service filed in Court today is taken on record.

None appears on behalf of the private respondents.

The matter relates to mutation in connection with the premises no. 84, Acharya Prafulla Chandra Road, Assessee No. 110370100901.

A 'No Outstanding Certificate' was issued by the Corporation on 28th February, 2021 mentioning the names of the owners of the said property.

A further 'No Outstanding Certificate' was issued by the Corporation on 17th May, 2021 in respect of the selfsame property and the same assessee number.

It appears that the names of the owners mentioned in the 'No Outstanding Certificate' dated 28th February, 2021 are different from one issued by the Corporation on 17th May, 2021.

A representation was made before the Corporation for supplying certain documents in connection with the change in the name of the owners of the subject property.

Information was supplied by the Assessor Collector (North)-cum-State Public Information Officer, Assessment Collection (North) Department, Kolkata Municipal Corporation on 5th October, 2021 mentioning that mutation was applied for relying upon the Registered Deed of Trust being no. 06515 of 2014 dated 9th September, 2014 and another Deed of Trust being no. 2263 of 2017 dated 3rd May, 2017.

The information mentions that no hearing was conducted prior to the mutation being effected.

According to the provisions of law, if the Corporation intends to delete the name of the recorded owner and mutate the property in respect of the applicant, then an opportunity of hearing is to be provided to the person whose name is sought to be deleted from the municipal records.

In the present case, admittedly, mutation was made without affording any opportunity of hearing to the erstwhile recorded owners of the property.

It appears from the documents annexed to the writ petition that after receiving the information under the Right to Information Act and after detection of the

illegality committed by the Corporation at the time of effecting mutation, the petitioners did not file any representation before the Corporation seeking rectification of the alleged illegality.

One opportunity ought to be given to the Corporation to correct any error at the time of effecting mutation.

In view of the above, the present writ petition is disposed of by granting liberty to the aggrieved persons to file appropriate representation before the Assessor Collector (North), Kolkata Municipal Corporation with documents in support of the claim.

In the event such representation is made, the same shall be taken into consideration by the respondent no.4 in accordance with law, after giving a reasonable opportunity of hearing to all the necessary parties.

A decision shall be taken by the aforesaid respondent at the earliest, but positively within a period of twelve weeks from the date of receiving the representation.

Mutation which has been done by the Corporation in favour of the persons whose names are appearing in the NOC issued by the Corporation on 17th May, 2021 appearing at page 65 of the writ petition shall be subject to the order passed by the aforesaid respondent after consideration of the representation to be filed by the aggrieved persons.

Leave is granted to the aggrieved party to apply before the aforesaid respondent for obtaining photocopy

of the Registered Deed of Trust being no. 06515 of 2014 dated 9th September, 2014 and the Deed of Trust being No. 2263 of 2017 dated 3rd May, 2017.

If an application is made for obtaining copy of the above documents, the same shall be supplied by the Assessor Collector (North) at the earliest, but positively within a period of two weeks from the date of filing the application.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)