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17.04.2023
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 28753 of 2022

**Md. Hasim
-versus
The State of West Bengal & Ors.**

**Mr. Nirmalya Kumar Das.
...For the Petitioner.**

**Mr. Achintya Kumar Banerjee,
Ms. Era Ghose.
...For KMC.**

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

The petitioner is aggrieved by the inaction on the part of the Kolkata Municipal Corporation in not taking steps to consider his representation seeking cancellation of mutation made in favour of the private respondents.

It appears from the documents annexed to the writ petition that the property stood mutated in favour of the private respondents way back in March 2013.

The petitioner alleges that an agreement for sale was entered by and between the petitioner and the private respondents in the year 2009 but the sale did not materialize.

A deed of gift is alleged to be executed by the petitioner in favour of the private respondents way back

in February 2013. The petitioner claims that the said deed of gift is a fraudulent document and the Corporation ought not to have acted on the basis of the same.

Several representations were filed by the petitioner before the Corporation and the police starting from 2013 onwards. The Corporation has not taken any steps to consider the representation filed by and on behalf of the petitioner.

Learned advocate appearing for the Kolkata Municipal Corporation submits that, for effecting mutation, the Corporation is not the appropriate authority to adjudicate whether the document relied upon by the applicant is fraud or not. The Corporation acted on good faith on the documents submitted by the applicant.

It appears from the submissions made on behalf of the parties that the petitioner is aggrieved by a recording in the municipal records which took place in the year 2013.

It is settled law that mutation neither creates nor extinguishes title of any person. It is only for the purpose of identifying the person primarily liable to pay tax.

It will be open for the petitioner to approach the appropriate forum for obtaining declaratory rights of his title over the property in question. It will not be proper to direct the Corporation to enquire into the matter and ascertain genuineness of the documents relied upon by the private respondents for obtaining mutation of the subject property.

In view of the above, no relief can be granted to the petitioner in the instant case.

The writ petition fails and is hereby dismissed.

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

(Amrita Sinha, J.)