

ORDER SHEET
WPO No. 388 of 2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SUMITA PASWAN & ORS.
VS
KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 21st March, 2023.

Appearance:
Mr. Arif Ali, Adv.
Mr. Sarban Bhattacharjee, Adv.
...For the Petitioners.

Mr. Gurudas Mitra, Adv.
Mr. Debangshu Mondal, Adv.
...For the KMC.

Mr. Biplab Guha, Adv.
Mr. Subrata Bhattacharjee, Adv.
..for Respondent No.6.

The Court:- The property at 16A, Sadananda Road, Kolkata-700 026 is presently recorded in favour of one Lakshmibala Das. Petitioners rely upon a certificate dated 10th August, 2022 issued by the Gram Panchayat in Bihar mentioning that the said Lakshmibala Das expired on 18th July, 2012 in Bihar.

Petitioners seek mutation of the said property relying upon a deed of Trust executed by the said Lakshmibala Das mentioning that after her expiry the property in question will devolve upon the petitioners. On the aforesaid facts an application was filed before the Kolkata Municipal Corporation praying for mutation of the subject premises.

Petitioners have impleaded one Sri Dilip Das as private respondent in the present writ petition. The said private respondent challenges the veracity of the Deed of Trust. It has been submitted that two separate title suits in connection

with the property of Laxmibala Das are pending consideration before the learned Court below.

The issue of mutation is also agitated before the learned Court below where the Kolkata Municipal Corporation has been impleaded as party respondent.

It has been submitted that the death certificate allegedly relied upon by the petitioners mentions the date of death in the year 2012 but the petitioners obtained the same in the year 2022 and thereafter filed the application seeking mutation of the premises in their names.

The Kolkata Municipal Corporation submits that till a formal order is passed declaring that the Deed of Trust is a genuine one, the Kolkata Municipal Corporation will not be able to act on the basis of the same as the genuinity of the same has been questioned by the private respondent.

It has further been submitted that since the Kolkata Municipal Corporation is a party respondent in the pending suit before the learned Court below, accordingly, at this stage the issue of mutation cannot be decided by the Corporation.

I have heard the submissions made on behalf of all the parties. It appears that the private party is challenging the right of the petitioners in respect of the property in question. The title suit regarding declaration of rights and the issue of mutation is pending consideration before the Court below. Though the petitioners are not parties in the pending suits, but as the Kolkata Municipal Corporation is a party, accordingly, it will not be proper for the Kolkata Municipal Corporation to take a decision on the basis of the application made by the petitioners seeking mutation. Several disputed questions of facts are there which are required to be answered in the pending suits.

In view of the above, the prayer of the petitioners seeking consideration of their representation for mutation cannot be accepted at this stage.

It will be open for the parties to get their rights declared by the competent forum. If after declaration of rights, the parties approach the Corporation for mutation, necessary steps shall be taken by the authority.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

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