

ORDER SHEET
WPO No.1448 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

ABHYUDAY PERIWAL
VS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 28th August, 2023.

Appearance:
Mr. Pranit Bag, Adv.
Mr. Rahul Poddar, Adv.
Ms. Shrayasi Dhang, Adv.
Ms. Pooja Jewrajka, Adv.
...for the Petitioner.

Mr. Biswajit Mukherjee, Adv.
Mr. Gopal Chandra Das, Adv.
...for the KMC.

Mr. Pritam Choudhury, Adv.
Mr. Abhijit Sakar, Adv.
...for Respondent No.3.

The Court:-The cause of action for filing the present writ petition is the alleged mutation of the premises no.12E, Judges Court Road, Ward No.74, Kolkata – 700 074.

The petitioner submits that the property in question is a joint undivided property. The same could not have been recorded in favour of a particular individual.

The petitioner relies upon the sale deed, the genealogical table and other documents in support of the claim that the property in question is joint and un-partitioned one.

Prayer has been made for setting aside the recording in the books and records of the Corporation and to grant opportunity of hearing to all the necessary parties prior to passing order in the matter.

Learned advocate representing the private respondent submits that the private-respondent is an eighty-six years old lady. The affairs

of the property were looked after by her son who unfortunately passed away during the pendency of the writ petition. The private respondent does not have any knowledge about the affairs of the said property.

Learned advocate representing the Corporation fairly submits before this Court that the mutation was done without granting opportunity of hearing to the parties.

According to provision of the Kolkata Municipal Corporation Act, 1980, mutation may be effected only after giving opportunity of hearing to all the necessary parties.

Admittedly, in the present case, the alleged mutation took place without giving any opportunity of hearing to the other co-sharers of the joint property. The said mutation cannot be held to be a valid one in accordance with the provision of the Act.

In view of the above, the alleged recording/mutation in the Municipal records is liable to be set aside and is, accordingly, set aside.

As the recording/mutation made by the Corporation is set aside, accordingly, the Corporation is obliged to revert the records to the position it was prior to effecting the mutation. Steps shall be taken in the matter at the earliest, but positively within a period of four weeks from the date of communication of this order.

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.)