

11.09.2024
Sl. No.2-4
AKG
Ct. 15

WPA 10023 of 2024
Syed Manzar Parwaz
-vs-
The Howrah Municipal Corporation & Ors.

WITH

WPA 21098 of 2018
With
IA No. CAN 1/2022
Rabia Khan
-vs-
The State of West Bengal & Ors.

WITH

WPA 6875 of 2023
Syed Manzar Parwaz
-vs-
The Howrah Municipal Corporation & Ors.

Mr. Apzal Ansari
...for the Petitioner in WPA 10023/2024 &
WPA 6875/2023

Mr. Sayan Sinha,
Mr. Adil Naser,
Mr. Nilanjan Bhattacharya
...for the Petitioner in WPA 21098/2018

Mr. Apzal Ansari
...for the Defendant in WPA 21098/2018

Mr. Sayan Sinha,
Mr. Adil Naser,
Mr. Nilanjan Bhattacharya
...for Respondent No. 10 in WPA 10023/2024 &
WPA 6875/2023

Mr. Sandipan Banerjee,
Mr. Ankit Surekha
...for HMC

These three writ petitions are taken up for hearing together and disposed of by this common order.

WPA 10023/2024 has been filed by Syed Manzar Parwaz for repair of a wall of a building at

premises no. 6, Pilkhana 1st Bye Lane, Ward No. 15, P.S.-Golabari, Howrah-711 106.

There is a dispute with regard to the interest of the petitioner in the relevant property. It is, however, not in dispute that he is in possession of the property.

WPA 21098/2018 has been filed by Rabia Khan claiming to be the thika tenant in respect of the said premises.

This writ petition was filed challenging the inaction of the Corporation to mutate the municipal records in her name as a thika tenant.

Learned advocate appearing for the petitioner in WPA 21098 of 2018 submits that the thika controller by an order dated October 27, 2020, declared the petitioner as thika tenant in respect of the said premises. During pendency of this writ petition, the Corporation has also mutated the relevant assessment records in the name of the petitioner as thika tenant.

WPA 6875/2023 has been filed by Syed Manzar Parwaz challenging the mutation of records by the Corporation in favour of Rabia Khan.

With regard to the repair of the wall, attention of this Court has been drawn to an order dated January 13, 2020 passed by the learned Civil Judge (Sr. Division), 2nd Court at Howrah in Title Suit No.

96/2018 filed by Rabia as one of the plaintiffs. Syed Manzar Parwaz is one of the defendants in the suit.

A perusal of the order dated January 13, 2020, demonstrate that the application for repair filed by Syed Manzar Parwaz was rejected since he could not attend the Court on the date of hearing.

Learned advocate appearing for Syed Manzar Parwaz submits that an application for recalling the order dated January 13, 2020, is pending.

I am, however, of the view that after a lapse of four years, the condition of the wall may have deteriorated further, which prompted Syed Manzar Parwaz to file this writ petition before this Court.

In view of the pending Title Suit between the parties, I am not inclined to pass any order for repair in this writ petition. I grant liberty upon Syed Manzar Parwaz to file a fresh application for repair before the learned Civil Judge (Sr. Division), 2nd Court at Howrah in connection with Title Suit No. 96/2018.

If such application is filed within two weeks from date, learned Civil Judge shall dispose of the same as expeditiously as possible, preferably within a period of three months from date, notwithstanding the rejection order dated January 13, 2020.

Since the prayer of Rabia Khan for mutation has already been allowed by the Corporation, there is no justification to keep WPA 21098/2018 pending.

Accordingly, this writ petition is disposed of along with connected application without passing any further order.

I find that the Corporation has mutated the relevant assessment records in favour of Rabia Khan on the basis of the order dated October 27, 2020, passed by the Deputy Controller, Thika Tenancy Department, Howrah declaring Rabia Khan as the thika tenant in respect of the said premises.

In that view of the matter, I am not inclined to interfere with the mutation of the relevant assessment records.

I, however, grant liberty upon Syed Manzar Parwaz to challenge the order dated October 27, 2020, before the appellate authority in accordance with law. It is clarified that the mutation of the relevant assessment records shall abide by the order of the appellate authority, if an appeal is filed. Accordingly, WPA 6875/2023 is also disposed of.

WPA 10023 of 2024, WPA 21098 of 2018 along with **CAN 1/2022** and **WPA 6875 of 2023** are disposed of.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)