

30-01-2024

ct no. 13

Sl. 31

sp

WPA 12378 of 2023

Smt. Minakshi Biswas

-Versus-

The Dum Dum Municipality & Ors.

Mr. Supriyo Chattopadhyay,

Mr. Sudip Kumar Maiti,

Ms. Debasree Chatterjee

...for the petitioner

Mr. A. Roy,

Mr. Ishan Bhattacharya

...for the Municipality

Mr. Ayan Banerjee,

Mr. Debasree Dhamali

...for the respondent no. 4

1. Affidavit of service filed in Court today is taken on record.
2. The subject matter of challenge is an order dated November 23, 2020 passed by the Board of Administrators, Dum Dum Municipality. The order was passed pursuant to an order of a Co-ordinate bench of this Court dated September 18, 2019 passed in W.P. 1267 (W) of 2018 (Sharmila Bose & Ors. Vs. The State of West Bengal & Ors.).
3. According to the Municipal records, it appears that originally the property being 45/4F, M. Dutta Road, Dum Dum

Cantonment, Kolkata 700028, was occupied by one Tarakeswar Bose.

4. It is submitted by the learned counsel for the Municipality that they have no records as to under what authority Tarakeswar Bose was occupying the property. Subsequently, in the year 1994, his daughter-in-law one Pratima Bose got her name mutated in respect of the said property.
5. Counsel for the petitioner challenges the said mutation in favour of Pratima Bose and claims to represent the other legal heirs of late Tarakeswar Bose.
6. The impugned order refers to Section 116 of the West Bengal Municipal Act, 1993, whereby and whereunder the Executive Officer of Dum Dum Municipality, on receipt of a notice of transfer of devolution of interest in the property, can record the same and effect mutation of the property in the name of such transferee/devolvee.
7. This Court notes that no such document of transfer or devolution has been produced by the private respondent Pratima Bose or the Municipality. In fact,

the entitlement of late Tarakeswar Bose in the property is itself suspect.

8. Be that as it may, late Tarakeswar Bose (appears to have occupied) and Pratima Bose is in occupation of the property in question.
9. Any civil rights of the other legal heirs of Late Tarakeswar Bose in respect of the property would have to be agitated before an appropriate civil forum.
10. This Court prima facie however finds that the mutation of the property in the name of Pratima Bose does not satisfy the requirement of Sub-Section 5 of Section 116 of the West Bengal Municipal Act, 1993.
11. In those circumstances, the impugned order shall remain stayed. The mutation in favour of Pratima Bose in respect of the said property shall not be given any further effect. The Municipality shall collect taxes in respect of the said property without any prejudice to the rights and contentions of the parties.
12. Let affidavit-in-opposition be filed within a period of 4 weeks from date. Reply, if any,

be filed within a period of 2 weeks thereafter.

13. Liberty to mention for hearing after completion of all pleadings.

(Rajasekhar Mantha, J.)