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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 21886 of 2023

Tapash Kumar Ghosh
Vs.
State of West Bengal & Ors.

Mr. Tanmoy Basu
... for the petitioner

Mr. Amal Kumar Sen, Ld. A.G.P
...for the State

1. The petitioner's predecessor-in-interest (father) was allotted a land under the Refugee Rehabilitation Scheme.
2. Subsequently, according to the petitioner, it was given out that unless vacant possession of the property was obtained, no freehold deed could be executed in favour of such predecessor.
3. Accordingly, it is contended that the petitioner's mother, that is, the wife of the original allottee, instituted a civil suit against the third party-occupant and got an eviction decree. The same was challenged up to second appeal but was affirmed. Subsequently, vacant possession of the same was handed over to the petitioner's mother. Upon the demise of the petitioner's mother, it is submitted that the petitioner holds power-of-attorney for all

the legal heirs of the original allottee. As such, it is argued that there is no further impediment to execute a freehold deed in favour of the petitioner, who is representing the estate of the other executants of the power-of-attorney, who are the legal heirs of the original allottee.

4. Learned counsel for the State submits that since a representation to that effect has been given by the petitioner, it is required to be ascertained whether the petitioner represents all the legal heirs of the original allottee and as to the present existent scheme available regarding such properties.

5. As such, learned counsel for the State submits that the representation of the petitioner shall be considered by the concerned authorities and a decision will be taken thereon.

6. Accordingly, W.P.A. No. 21886 of 2023 is disposed of by directing the respondent no. 3 to consider the representation of the petitioner annexed to the writ petition for execution of freehold deed in respect of the land allotted in favour of the petitioner's predecessor-in-interest, upon giving an opportunity of hearing to the petitioner as well as an opportunity to produce all relevant documents.

7. For such hearing and production of documents by the petitioner, the petitioner shall approach the respondent no. 3 at the latter's office at 2.p.m. on March 06, 2024, when, or any date and time within a week thereafter to be notified by the said respondent, the respondent no. 3 shall give the petitioner an opportunity of hearing and production of documents. Within a fortnight thereafter, the respondent no. 3 shall take a decision on the said representation on a consideration of the documents produced by the petitioner.

8. The outcome of such decision shall be communicated to the petitioner immediately after the completion of a fortnight after such hearing.

9. In the event the respondent no. 3 takes a decision that there is no impediment in executing the freehold deed in favour of the petitioner and/or all the legal heirs of the original allottee, the respondent no. 3 shall take immediate steps for execution of the said deed. In such event, it is expected that such deed shall be executed within two months thereafter.

10. In the event the respondent no. 3, for valid reasons, is of the opinion that such deed cannot be executed, a reasoned order shall be communicated to the petitioner.

11. It will be open to the petitioner in such case to challenge the same before the appropriate forum.

12. There will be no order as to costs.

13. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)