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In The High Court At Calcutta
Constitutional Writ Jurisdiction
(Appellate Side)

WPA 26355 of 2023

Debamitra Mitra
Vs.
The State of West Bengal & Ors.

Mr. Yashraj Roy,
Ms. Priya Ghosal.
..for the petitioner.

Mr. Amal Kr. Sen Id. AGP.,
Mr. Lal Mohan Basu.
...for the State.

Mr. Debasish Banerjee,
Mr. Subrata Saha,
Mr. Rakesh Jana,
Mr. Abhik Biswas,
Mr. Anirban Sikder.
....for the respondent nos.6 to 9.

Mr. P.K. Roy,
Mr. Biplab Das,
Mr. Partha Sarathi Pal.
....for the respondent nos.2 to 4.

The petitioner claims that she is entitled to a registered deed in respect of the flat and car parking space in Neelachal Abasan Co-operative Housing Society limited.

The petitioner refers to documents to show that payment was made for purchase of the flat along with the car parking space.

A report has been filed by the Co-operative Society by admitting that the flat was sold to the predecessor-in-interest of the petitioner but the Society raises dispute with regard to the car parking space.

A dispute was raised by the petitioner before the concerned Joint Registrar, Co-operative Society, KMAH and order has been passed on 22th May, 2023 in her favour directing the Society along with its office bearers to execute the membership of the petitioner in place of the deceased member and to execute and make registration of Deed of Allotment within a stipulated time period. The same has not been done till date.

The Joint Registrar of Cooperative Society, KMAH has not specifically mentioned as to whether the deed is to be registered in respect of the flat or in respect of the flat and the car parking space jointly. The issue remains undecided by the Joint Registrar of Cooperative Societies. Though the petitioner asserts that payment was made for purchase of car parking space but the Society denies such submission.

To put the issue at rest once and for all, the Joint Registrar of Cooperative Society, KMAH is directed to reconsider the matter and specifically decide as to whether the petitioner will be entitled to registration of the flat only or registration of the flat along with the car parking space.

Decision shall be taken in the matter after giving reasonable opportunity of hearing to the petitioner and the representatives of the Cooperative Society at the earliest but positively within a period of eight weeks from the date of communication of this order.

The parties will be at liberty to rely upon all documents in respect of their respective stand at the time of hearing.

Reports filed by the respondent nos. 6 to 9 and respondent no.5 in Court today be taken on record.

The writ petition stands disposed of.

Urgent certified copy of this order, if applied for, be supplied to the parties expeditiously, on compliance of usual legal formalities.

(Amrita Sinha, J.)