

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:
The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Md. Shabbar Rashidi

M.A.T. 2407 of 2023

Sri Tridip Narayan Chowdhury
vs.
The Kolkata Municipal Corporation & Ors.

For the Appellant	: Mr. Kallol Basu Mr. Dibakar Bhattacharjee Mr. Atreya Chakraborty
For the K.M.C	: Mr. Biswajit Mukherjee Mr. Swapan Kumar Debnath
Heard on	: December 2, 2024
Judgment on	: December 2, 2024

DEBANGSU BASAK, J.:-

1. Appeal is directed against an order dated August 10, 2023 passed in W.P.A. 26883 of 2024.

2. By the impugned order, learned Single Judge found a disputed question of fact involving with regard to title of an immovable property and exercised discretion in not proceeding with the writ petition.

3. Learned Single Judge allowed the private parties to agitate their claims with regard to the immovable property before the appropriate forum.

4. Learned advocate appearing for the appellant submits that the appellant holds leasehold rights in respect of the immovable property by virtue of a registered deed of lease. Appellant applied for mutation of the immovable property concerned. Such mutation was disallowed. Being aggrieved, appellant moved the High Court under Article 226 of the Constitution of India in which an order dated September 12, 2023 passed requiring the Corporation authorities to pass a reasoned order.

5. Learned advocate appearing for the appellant refers to the reasoned order and submits that Corporation apparently claims to be the owner of the immovable property concerned. He submits that such claim is without any substance. He refers to the documents produced by the Corporation in Court today. He submits that the Municipal Assessment Book also does not establish that the Corporation is the owner of the property concerned.

6. Learned advocate appearing for the appellant draws the attention of the Court to the sequence of events relating to the immovable property concerned. He submits that at the given point of time, there was a requisition

proceeding. Such requisition proceeding was subsequently dropped. He submits that the right of the appellant in respect of the property concerned should be recognized by the corporation.

7. Corporation authority is represented.

8. Appellant before us claimed mutation on the basis of a registered deed of lease. Appellant is not the owner of the property.

9. Municipal Assessment Book produced in Court suggests that one Podder was the owner of the property concerned. There are various entries in such Municipal Assessment Book which requires consideration by a Civil Court after permitting the parties opportunity to lead evidence with regard thereto.

10. Appellant before us moved the Writ Court with regard to claim for mutation. His earlier writ petition being W.P. 1153 (W) of 2011 was disposed of by requiring the Corporation authorities to decide the issue. A decision with regard thereto was taken by an order dated March 22, 2014 which was assailed in the writ petition resulting in the impugned order. The reasoned order dated March 22, 2014 cannot be faulted on the principles of natural justice. Reasoned order exhibits plausible view on the subject.

11. In any event, disputes exist on the basis of the documents produced in Court which does not permit a Writ Court to arrive at a conclusive finding as to whether or not the appellant is entitled for mutation in respect of the property concerned.

12. In such circumstances, we find not merit in the present appeal.
13. **M.A.T. 2407 of 2023** is **disposed of** without any order as to costs.

(Debangsu Basak, J.)

14. I agree

(Md. Shabbar Rashidi, J.)

S.D.