

ML 187
28.03.2024
Ct. No. 15
adeb

W.P.A. 8518 of 2020

Ramesh Chowdhury & Ors.

Vs.

The Howrah Municipal Corporation & Ors.

Ms. Koyeli Bhattacharyya
...for the petitioner

Mr. Sandipan Banerjee
Mr. Ankit Sureka
...for the HMC

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
Mr. Kaustav Bhattacharya
Ms. Sinjini Chakraborty
Ms. Priyanka Jana
...for the respondent nos. 5 and 6

By instituting this writ petition petitioners have prayed for cancellation of mutation which has been made in favour of one Sudhir Chandra Dey being the father of the private respondent nos. 5 and 6 on the ground that grandfather of the petitioners namely Pardeshi Chowdhury was the owner of the premises no. 64/5, Natabar Pal Road, Howrah. In support of right, title and interest of the grandfather of the petitioners reliance has been placed on the record of rights containing name of the grandfather at page 14 of the writ petition and demand notice issued by the then Howrah Municipality dated 13th July, 1977 against the grandfather of the petitioners which is at page 20 of the writ petition.

According to the petitioners, letter was sent to the Commissioner, Howrah Municipal Corporation for mutation of their names being the successors-in-interest

of said Pardeshi Chowdhury, but the steps were not taken by the concerned authority of the corporation since name of one Sudhir Chandra Dey was inserted in the assessment record of the corporation in place and stead of said Pardeshi Chowdhury. Petitioners question mutation of name of Sudhir Chandra Dey, since according to them, said Pardeshi Chowdhury was the owner of the premises in question. Therefore, right, title and interest of the premises in question should devolve upon the petitioners and taking these facts into consideration the mutation which has been granted in favour of said Sudhir Chandra Dey should be quashed, thereby names of the petitioners need to be mutated.

Mr. Debjit Mukherjee, learned advocate representing respondent nos. 5 and 6 has opposed the prayer of the petitioners since a deed of conveyance dated 9th August, 1982 was executed by the predecessors-in-interest of the present petitioners in favour of said Sudhir Chandra Dey and such step was taken in connection with an execution case for satisfying the decree dated 11th May, 1977 which was passed in favour of the father of the private respondents in a suit numbered Title Suit No. 50 of 1974 instituted for specific performance of contract. The decree dated 11th May, 1977 and the deed of conveyance dated 9th August, 1982 are placed before this Court and the same are taken on record.

It is contended on behalf of private respondents that petitioners have suppressed this relevant facts while filing this writ petition.

Having considered the submissions made on behalf of the parties and on perusal of the decree dated 11th May, 1977 it appears that the Civil Court passed the decree in favour of said Sudhir Chandra Dey and against the successors-in-interest of Pardeshi Chowdhury thereby directing the successors-in-interest of Pardeshi Chowdhury to execute deed of sale in respect of the suit property in favour of said Sudhir Chandra Dey on receiving the balance consideration from the plaintiff within specified period. Since steps were not taken in terms of the decree an execution case was filed and in connection therewith sale deed was executed on 9th August, 1982 in favour of said Sudhir Chandra Dey being the father of the private respondents and the same was executed by the successors-in-interest of Pardeshi Chowdhury.

In view of aforesaid facts it appears that the concerned authority of Howrah Municipal Corporation did no wrong in granting mutation in favour of said Sudhir Chandra Dey and the writ petition appears to be misconceived.

Accordingly, the writ petition stands dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)