

OD-10

WPO No.282 of 2024  
IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
ORIGINAL SIDE

ASHUTOSH BOSE  
VERSUS  
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:  
The Hon'ble JUSTICE AMRITA SINHA  
Date: 12th April, 2024.

Appearance:  
Mr. Avirup Chatterjee, Adv.  
Mr. Rishov Das, Adv.  
...for Petitioner.

Mr. Gopal Chandra Das, Adv.  
Ms. Manisha Nath, Adv.  
...for KMC

Mr. Saurav Chaudhuri, Adv.  
...for Respondent Nos. 6 to 9.

The Court:- The petitioner claims to be the owner of the subject property. It has been submitted that the property in question was recorded in favour of the predecessor-in-interest of the petitioner. Thereafter, the private respondents relied upon a forged and fabricated deed and recorded their names in the records of the Kolkata Municipal Corporation and obtained plan relying on the same. Presently, the private respondents are raising construction thereon.

The petitioner filed a representation before the Municipal Commissioner seeking cancellation of the building plan on the ground of fraud and misrepresentation.

The petitioner prays for a direction upon the Commissioner to decide the issue in accordance with Section 397 of the Kolkata Municipal Corporation Act, 1980.

Learned advocate representing the private respondents denies the allegation of the petitioner. It has been submitted that the private

respondents are the owners of the subject property. Reliance has been placed on the title deed. The Corporation issued sanction plan pursuant to which the private respondents are raising construction.

Upon hearing the parties, it appears that there is a dispute with regard to the ownership of the subject property. Both the petitioner and the private respondents claim to be the owners of the same. The petitioner asserts that the deed relied upon by the private respondents is fake, fabricated and manufactured.

The Municipal Commissioner will not be the appropriate authority to adjudicate the genuineness of the deed relied upon by the private respondents at the time of obtaining the sanctioned plan.

It is settled law that mutation does not decide title or ownership of a property. Mutation is only for the purpose of identification of the person responsible to pay tax. If the petitioner challenges the ownership claimed by the private respondents, steps ought to have been taken before the competent civil court for declaration of title.

In the instant facts and circumstances of the case no direction can be passed upon the Commissioner to adjudicate the issue.

In view of the above, the writ petition fails and is hereby dismissed.

It will be open for the petitioner to approach the competent forum for declaration of title and other consequential relief, if so advised.

Affidavit of service filed in Court today is taken on record.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all legal formalities.

(AMRITA SINHA, J.)