OD-9

ORDER SHEET

WPO/557/2024

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

NEHA SHAW
VS
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:
The Hon'ble JUSTICE KAUSIK CHANDA
Date : 12th July, 2024

Appearance:
Mr. Rabindra Kr. Mitra, Adv.
Mr. Abhishek Agarwal, Adv.
Mr. Amir Ali, Adv.
..for the petitioner

Mr. Srijan Nayak, Adv.
Mr. Nilanjan Chatterjee, Adv.
..for KMC

Mr. Sourav Sen, Adv.
Ms. Jayashree Saha, Adv.
Mr. Partha Chakraborty, Adv.
Mr. Muhammad Obaid, Adv.
..for respondent nos.8 & 10

Mr. Dyutiman Banerjee, Adv.
Mr. Rishav Kumar Singh, Adv.
Mr. Sagar Kumar Mishra, Adv.
..for respondent no.9

The Court:- It appears that the assessment record in respect of the relevant premises has been mutated in favour of respondent no.8 on the strength of a registered gift deed dated July 4, 2015. The gift deed transfers the 1/6th share of the relevant property by the father of respondent no.8 and the petitioner in favour of respondent no.8.

The writ petitioner challenges the mutation of assessment record in favour of respondent no.8. It is the case of the petitioner that the gift deed in question is fraudulent and, therefore, the mutation of records in favour of the respondent no.8 should be cancelled.

I am of the view that a registered gift deed, unless declared to be illegal by a competent court or an authority, cannot be ignored by the Kolkata Municipal Corporation.

The petitioner strenuously argues that by virtue of fraudulent gift deed, no right has been accrued in favour of respondent no.8 and, therefore, the Corporation should cancel the mutation.

I am of the view that mutation in favour of respondent no.8 does not confer any right in favour of the respondent no.8. At best, the said mutation can give rise to a rebuttable presumption with regard to possession of respondent no.8 over the relevant premises.

In that view of the matter, I am not inclined to entertain this writ petition. Needless to mention that it will be open to the petitioner to take steps in accordance with law for declaration of the gift deed in question to be void.

WPO/557/2024 is, thus, dismissed.

(KAUSIK CHANDA, J.)

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