

Form No. J(2)

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Uday Kumar

FMA 952 of 2025
IA No: CAN 1 of 2025

Sri Gautam Kar
Vs.
The State of West Bengal and others

For the appellant : Mr. Saptangshu Basu, Ld. Sr. Adv.,
Mr. Anil Kr. Jana,
Ms. Rita Patra,
Ms. Pusmita Das

For the State : Mr. Jayanta Samanta, Ld. Jr. Govt. Pleader,
Mr. Kazi Sajjad Alam

For the respondent
nos. 5, 6 & 7 : Mr. Anubrata Santra

Heard on : 09.09.2025

Judgment on : 09.09.2025

Sabyasachi Bhattacharyya, J.:-

1. The present challenge has been preferred against an order passed in a writ petition filed by the present appellant. The writ petitioner challenged the allotment and execution of deed of gift in favour of the private respondents in respect of a particular plot of land, being plot no. 11 (as per the appellant, 11/H) at Chandpur Colony-1, P.S.- Regent Park, Kolkata – 700 040.

2. The Secretary, Refugee Relief & Rehabilitation Department and Refugee Rehabilitation Commissioner, West Bengal, by an order dated October 21, 2008, pursuant to an earlier direction of this Court, disposed of the appellant's representation by coming to the conclusion that the appellant would be entitled to settlement of a particular plot of land as a *bona fide* refugee, subject to proving the same to the satisfaction of the competent authority. Learned senior counsel for the appellant submits that, however, the veracity of the allotment in favour of the private respondents, which was under challenge in the representation, was not considered at all by looking at the basis of such allotment.
3. When the said order was challenged before the learned Single Judge, it is submitted by the appellant that the learned Single Judge proceeded merely on the premise of relief (a) as sought in the writ petition, challenging the gift deed, which according to the learned Single Judge had to be canvassed before a proper civil court. On the other hand, the learned Single Judge also did not enter into the omissions on the part of the Rehabilitation Commissioner to consider the challenge to the veracity of the allotment in favour of the private respondents.
4. Thus, it is submitted that the order impugned herein ought to be set aside.
5. Learned counsel appearing for the private respondents submits that the Refugee Relief and Rehabilitation Department, only upon scrutiny

of all documents and the factum of possession of the private respondents, had allotted the land and executed a gift deed in favour of the private respondents. As such, it is submitted that in the absence of any evidence to the contrary, the learned Single Judge was justified in rejecting the writ petition. Moreover, it is pointed out that the writ petition challenged the gift deed itself and not the allotment.

6. Learned counsel for the State places reliance on the concluding portion of the order dated October 21, 2008 passed by the Refugee Rehabilitation Commissioner, where liberty was given to the appellant to approach the appropriate authority to prove to the satisfaction of the authority that he is a legal heir of a *bona fide* refugee for the purpose of settlement of plot no. 12A measuring 01 cottah 05 chattaks land, which is recorded in his name.
7. Upon hearing learned counsel for the parties, we find that the plinth of the appellant's contention before the Refugee Rehabilitation Commissioner was a challenge to the allotment and execution of the consequential deed of gift in favour of the private respondents in respect of plot no. 11 (as per the appellant, 11/H).
8. We do not find from the order of the Commissioner dated October 21, 2008 any consideration or scrutiny and/or examination as to the premise on which the allotment was made in favour of the private respondents. Rather, the documents produced by the appellant before the Commissioner in respect of the appellant's purported

possession of the plot no. 11 (as per the appellant, 11/H) were also not considered.

9. The learned Single Judge proceeded on the premise that the writ petition threw a challenge simpliciter to the deed of gift, without looking into the pleadings of the writ petition which made it abundantly clear that the basis of the challenge was against the allotment, of which the deed of gift was merely a consequence. As such, the challenge in the writ petition was, with utmost respect, misread by the learned Single Judge to the extent that the same assailed the very allotment in favour of the private respondents and the consequential execution of the deed of gift.
10. Also, the omissions on the part of the Refugee Rehabilitation Commissioner, as pointed above, were not entered into by the learned Single Judge.
11. As such, in view of our above observations, we are of the opinion that the matter ought to be sent back to the Commissioner for a fresh adjudication on merits, upon giving opportunity of hearing to both sides, on the basis of the representation of the appellant.
12. Accordingly, FMA 952 of 2025 is allowed on contest, thereby setting aside the impugned judgment dated March 17, 2025 passed in WPA 32184 of 2008 as well as the order dated October 21, 2008 passed by the Refugee Rehabilitation Commissioner, West Bengal in the matter of *Gautam Kar vs. State of West Bengal & Others*.

13. We hereby remand the matter to the Refugee Rehabilitation Commissioner, West Bengal for a fresh consideration and adjudication on the representation of the appellant, upon giving adequate opportunity of hearing to all the interested parties including the private respondents and the appellant, and in accordance with law, in the light of the observations made above.
14. In course of such fresh adjudication, the Refugee Rehabilitation Commissioner shall advert to the documents of purported possession of the appellant as well as the basis of the allotment in favour of the private respondents and decide on the legality of such allotment in accordance with law without being prejudiced in any manner by any of the observations made above.
15. It is expected that such exercise shall be concluded by the Commissioner as early as possible, preferably within December 31, 2025.
16. IA No: CAN 1 of 2025 is also disposed of accordingly.
17. There will be no order as to costs.
18. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Uday Kumar, J.)