

S/L 5
20.05.2025
Court. No. 19
Suwayan

WPA 10660 of 2024

**Subimal Chaudhuri
Vs.
The State of West Bengal & Ors.**

Mr. Sanjib Dawn

...for the petitioner.

Mr. Priyabrata Batabyal

...for the State.

1. The affidavit-of-service as filed today is taken on record.
2. The writ petitioner and the respondents/State and its functionaries i.e. the respondent nos. 1 and 2 are represented by their respective learned Advocates.
3. At the time of hearing Mr. Dawn, learned Advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to the prayers as made in the instant writ petition. It is submitted that since the respondent no. 2/authority by issuing a letter dated 17.10.2023 had refused to effect mutation in the names of the writ petitioner and the respondent no. 3, the writ petitioner is constrained to approach this Court by filing a petition under Article 226 of the Constitution of India for quashing of the said letter dated 17.10.2023 with a further prayer commanding the respondent no. 2 to effect mutation in respect of unsold portion of plot no. 95, Block – AD, Sector – I, Salt Lake, Kolkata 700064 (hereinafter referred to as the ‘said premises’ in short).

4. In course of his submission Mr. Dawn at the very outset draws attention of this Court to page nos. 63 and 64 of the instant writ petition being a copy of the application for mutation dated 31.12.2022 as submitted by the writ petitioner and the private respondent no. 3 with the respondent no. 2/authority.
5. It is submitted by Mr. Dawn that from the said application it would reveal that in respect of the said premises originally one Bimal Kumar Chaudhuri (since deceased) and one Suchandra Chaudhuri (since deceased) were joint lessees for a term of 999 years. It is further submitted by Mr. Dawn that on account of the death of the said Bimal Kumar Chaudhuri, his widow Suchandra Chaudhuri (since deceased) became the absolute lessee of the said property. It is further submitted that from the said letter dated 03.12.2022 it would reveal that during the lifetime of said Suchandra Chaudhuri, she executed a registered deed of assignment dated 25.04.2008 in favour of one Suresh Kumar Agarwal in respect of a portion of the ground floor of the said premises, however, the remaining portion of the said premises was in occupation of the said Suchandra Chaudhuri (since deceased) as a lessee thereof.
6. It is the further case of the writ petitioner that upon the death of the said Suchandra Chaudhuri who died intestate and issueless, the remaining portion of the said property devolves upon the writ petitioner and the private respondent no. 3 being the legal heirs of the

husband of the said Suchandra Chaudhuri and in that capacity the writ petitioner and the private respondent no. 3 had applied for mutation with the respondent no. 2 on 31.12.2022.

7. It is submitted by Mr. Dawn that since Suchandra Chaudhuri during her lifetime had not sold and/or assigned and/or parted with the remaining portion of the said premises except the portion assigned to Sukesh Kumar Agarwal, there cannot be any predicament on the part of the respondent no. 2/authority to mutate the names of the writ petitioner and the private respondent no. 3 in respect of the remaining portion of the said premises. It is thus submitted that appropriate relief/reliefs may be granted to the writ petitioner in terms of the prayers made in the instant writ petition.
8. *Per contra*, Mr. Batabyal, learned Advocate appearing on behalf of the respondents/State submits before this Court that there is absolute justification on the part of the respondent no. 2 to issue a letter of rejection dated 17.10.2023 in view of the fact that the present writ petitioner and the private respondent no. 3 have applied for mutation in respect of 100 percent share in the said premises.
9. On careful consideration of the entire materials as placed before this Court and after hearing the learned Advocates for the contending parties it reveals that by issuing a letter under challenge dated 17.10.2023 the respondent no. 2/authority refused to effect mutation

in the name of the writ petitioner and the private respondent no. 3 in respect of the said premises on the ground that 50 percent of share of Suchandra Chaudhuri in the said property had already been transferred to one Sukesh Kumar Agarwal.

10. This Court finds that the action of the respondent no. 2 is totally unreasoned and unacceptable in view of the fact that from the letter dated 31.12.2022 it would reveal that the writ petitioner and the private respondent no. 3 has applied for mutation in respect of unassigned portion of the said plot that is in respect of the remaining portion of the said premises excepting the portion which has been transferred to Sukesh Kumar Agarwal.
11. This Court thus finds sufficient merit in the instant writ petition.
12. Consequently, the communication dated 17.10.2023 as made by the respondent no. 2 in favour of the writ petitioner and the private respondent no. 3 is hereby quashed.
13. In view of such, while disposing the instant writ petition this Court directs the respondent no. 2 to effect mutation in respect of unassigned portion of plot no. 95, Block – AD, Sector – I, Salt Lake, Kolkata 700064 in the names of the writ petitioner and the private respondent no. 3 by making necessary apportionment of property tax subject to compliance of all other formalities by the writ petitioner and the private respondent no. 3.

14. The entire exercise as indicated hereinabove is to be completed by the respondent no. 2 within 60 working days from the date of communication of the server copy of this order.
15. The time limit as fixed by this Court is mandatory and peremptory.
16. Liberty is given to the learned advocate-on-record for the writ petitioners to communicate the server copy of this order to the respondent no. 2 for his information and immediate compliance.
17. The respondent no. 2 is directed to act on the basis of the server copies of this order.
18. With the aforementioned observation, the instant writ petition being WPA 10660 of 2024 is disposed of.
19. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)