

April 10, 2025
Sl. No.10
Court No.19
s.biswas

WPA 11266 of 2024

Mr. Jagdish Prasad Bohra
vs.
The State of West Bengal and others

Mr. Partha Pratim Ray
Mr. Bikramjit Mandal

... for the petitioner

Ms. Kakali Samajpaty
Ms. Kali Naskar

... for the State

Mr. Mayukh Mukherjee
Mr. Koustav Lal Mukherjee
Ms. Sarmistha Basak
Mr. Samrat Mandal

... for the respondent no.3

1. The affidavit of service as filed on behalf of the petitioner is taken on record.
2. Learned advocate appearing on behalf of the respondent nos.1, 2 and 4 has submitted a written instruction dated 07.05.2024 as issued by the respondent no.2 after serving copies of the same to the learned advocate for the writ petitioner and the learned advocate for the private respondent no.3. Let the instruction as submitted on behalf of the respondent State is taken on record.
3. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondent no.2 for quashing and/or setting aside the Memo No.3332-SL(AL)-2L-122/75(AD-62) dated 08.12.2023, whereby and whereunder the respondent no.2 intimated the private respondent

no.3 as well as the writ petitioner regarding cancellation/rejection of transfer application dated 12.07.2022 as submitted by the private respondent for transferring 50% share of Plot No.AD-62 in Sector-I, Salt Lake, Kolkata 700064 in favour of the present writ petitioner.

4. For effective adjudication of the instant *lis*. Some admitted facts are required to be discussed in a nutshell which are as follows:

- (i) Originally one Arun Krishna Roy was the allottee in respect of the aforementioned plot being AD-62, Sector-I, Salt Lake City, Kolkata 700064.
- (ii) After the death of said Arun Krishna Roy the said property was inherited by his widow Mina Rani Roy (since deceased) and the private respondent no.3 being his son.
- (iii) After the death of Mina Rani Roy the private respondent no.3 became the allottee of the said plot of land.
- (iv) On 12.07.2022 the private respondent made an application with the respondent no.2 for granting permission to transfer his proportionate 50% undivided share in the aforementioned plot which is a leasehold property of the private respondent in favour of the writ petitioner wherein the details of

the private respondent as a transferee/assignee has been given.

- (v) By issuing a Memo dated 21.11.2022 the respondent no.2 authority asked the writ petitioner to deposit the stipulated amount in public exchequer towards permission fees for the aforementioned transfer.
- (vi) Under cover of letter dated 14.11.2022 the writ petitioner intimated the respondent no.2 authority regarding deposit of such transfer fees.
- (vii) By issuing a memo dated 21.11.2022 the respondent no.2 authority informed both the writ petitioner as well as the private respondent regarding permission for transfer as prayed for with a further request to the writ petitioner to submit one original deed of transfer/assignment engrossed in stamp paper with a duplicate copy.
- (viii) On 08.12.2023 the letter under challenge was issued by the respondent no.2 authority in favour of the private respondent with a copy to the writ petitioner indicating that request for cancellation of the transfer application dated 12.07.2022 as submitted by the private respondent has been accepted and

therefore the said transfer application dated 12.07.2022 stood cancelled/rejected.

5. In course of hearing, Mr. Roy, learned advocate duly assisted by Mr. Mandal, learned advocate for the writ petitioner, at the very outset submits before this court that since the writ petitioner has already invested a huge amount for the proposed transfer, an opportunity of hearing ought to have been given to the writ petitioner to the prospective transferee by the respondent no.2 authority prior to issuance of Memo dated 08.12.2023.
6. It is further submitted the respondent no.2 authority he is duty bound to observe the principle of natural justice. It is thus submitted on behalf of the writ petitioner that proper reliefs may be granted in terms of the prayers made in the instant writ petition.
7. In course of her submission Ms. Samajpaty, learned advocate for the respondent State draws attention of this court to the report as submitted today by her client. It is submitted that in absence of any perversity in the letter under challenge dated 08.12.2023 there is hardly any chance to interfere with such order.
8. Mr. Mukherjee, learned advocate appearing on behalf of the private respondent no.3 however contends that from the materials placed before

this court, it would reveal that the dispute between the petitioner and the private respondent are in civil in nature and the writ petitioner has already approached the common law forum as well lodged an FIR against the private respondent. However, in connection with the said written complaint though a police case was started but ultimately the final report was submitted by the police authority exonerating the private respondent from the allegation as made in the said written complaint.

9. In course of hearing, learned counsel for the respondent no.3 has handed over a photocopy of the final report in connection with Bidhannagar (North) Police Station Case No.165 of 2023 dated 02.11.2023 and the same is taken on record.
10. On careful consideration of the entire materials as placed before this court and after hearing the learned advocates for the contending parties, this court considers that justice would be subserved in the event the respondent no.2 authority is directed to give a chance of hearing to both the writ petitioner and the private respondent no.2 prior to passing any order regarding the letter dated 13.10.2023 as issued by the private respondent no.3, especially when it is the case of the petitioner that in the meantime the writ petitioner has already invested huge amount.

Such being the position, this court while disposing of the instant writ petition, passes an order for quashing the Memo No.3332-SL(AL)-2L-122/75(AD-62) dated 08.12.2023, as issued by the respondent no.2 authority with immediate effect.

11. It is further ordered that within 30 working days from the date of communication of the server copy of this order, the respondent no.2 being the Land Manager, Bidhannagar, Department of Urban Development and Municipal Affairs, Government of West Bengal, shall fix a date of hearing in reference to the letter dated 13.10.2023 as issued by the private respondent no.3. The respondent no.2 authority is further directed to intimate the said date of hearing to both the writ petitioner as well as the private respondent no.3 and in such hearing he shall give due opportunity of hearing to both the writ petitioner as well as to the private respondent no.3 and/or their authorized representatives and thereafter shall pass a reasoned order within 90 working days from the date of communication of the server copy of the order. The time limit as fixed by this court is mandatory and peremptory.

12. Liberty is given to the learned advocate for the writ petitioner to communicate the server copy of this order to the respondent no.2. The

respondent no.2 is hereby directed to act on the server copy of this order.

13. It is made clear that this court has not gone into the merit of the letter dated 13.10.2023 as issued by the private respondent no.3 in favour of the respondent no.2 and therefore all points are kept open.

14. With the aforementioned observation, the instant writ petition is disposed of.

15. All the parties are to act on the basis of the server copy of the order.

(Partha Sarathi Sen, J.)