

10 07-01-2025
AKG
Ct. 15

WPA 16684 of 2024
Manjusha Chakraborty & Anr.
Vs.
Kalyani Municipality & Ors.

Mr. Ankit Agarwala,
Ms. Alotriya Mukherjee
...for the Petitioners
Mr. Tapan Kumar Rakshit
...for Kalyani Municipality

Let the report filed by the Municipality be kept on record.

This is the second round of writ petition seeking the mutation of the relevant assessment records issued by the Kalyani Municipality in favour of the petitioners.

It appears that the original assessment records stood in the name of Sri Kanta Prosad Sinha, son of the late Smt. Uma Sinha. Sri Kanta Prosad Sinha acquired the leasehold interest in the relevant property from the State. Subsequently, Kanta Prosad Sinha gifted the property to his mother, Smt. Uma Sinha, through a 'Deed of Gift' in 1995. Upon Smt. Uma Sinha's intestate death, the rights, title, and interest in the property devolved upon her legal heirs, namely: (i) Smt. Mridula Hazra @ Smt. Mridula Hajra, (ii) Sri Kanta Prosad Sinha, (iii) Sri Sushanta Kumar Sinha @ Sushanta Sinha, (iv) Smt. Malaya Sarkar, and (v) Sri Atish Kumar Sinha.

The aforementioned legal heirs of Smt. Uma Sinha, by a

transfer deed dated July 30, 2010, transferred the leasehold property to the petitioners.

A coordinate Bench of this Court, in the earlier round of writ petition (WPA 2519 of 2022), on April 4, 2022, passed the following orders:

“Under such circumstances, this Court is of the opinion, that unless there are rival claims in respect of the property to those of the petitioners or there are other irregularities in the mutation application, the mutation must be effected in accordance with law. If there are deficiencies in the documents or in the application which was to be scanned and uploaded, the municipality shall intimate the petitioners the irregularities in the application and/or the deficiencies in the documents. If the petitioners can furnish those documents and cure the irregularities, the competent authority of the Kalyani municipality shall proceed with the mutation case, in accordance with law, upon granting an opportunity of hearing to the petitioners. A reasoned order shall be passed and communicated to all concerned. If it is found that there are other rival claimants, in such case, the municipality shall hear them in accordance with law. If the occasion so arises, a representative of the Estate Manager, Kalyani Urban Development and Municipal Affairs Department, Government of West Bengal, may be consulted with regard to such transfer and the claim of the petitioners. Mutation neither creates nor extinguishes title. It is only for the purpose of ascertaining and identifying the persons who are liable to pay the tax in respect of the property in question. Under such circumstances, the municipality need not go on a roving enquiry to find out whether there are other claimants or not, unless records and the documents indicate that third parties are required to be heard in the proceeding. Otherwise, if the documents as required are furnished and

all requirements for mutation are met, the municipality shall proceed to grant mutation in accordance with law. Such order shall be communicated to the petitioners. In case of denial, reasons shall be disclosed.

The entire exercise shall be completed within a period of four months from date of communication of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the learned advocate's communication."

From the report filed by the Municipality before this Court, it appears that the Municipality declined to mutate the relevant records in favor of the petitioners, as they failed to upload the following documents:-

- i) The deed of Sri Kanta Prosad Sinha.
- ii) The deed of Smt. Uma Sinha @ Umaswashi Sinha.
- iii) Death certificate of Uma Sinha.
- iv) Death mutation "certificate and deed" after the death of Uma Sinha.
- v) The land area certificate.
- vi) The completion certificate of the building.

Of the aforesaid six documents required, the petitioners

may face genuine difficulty in obtaining the documents mentioned against item (i) to (iv). Given that the relevant property was already recorded in the name of Sri Kanta Prosad Sinha and there is no dispute regarding the legal heirs of Uma Sinha, the Municipality's insistence on these documents is, in this case, unnecessary. However, the petitioners may obtain a certified copy of deed of Uma Sinha from the relevant registry office and produce the same before the Municipality.

Regarding the completion certificate, I agree with the petitioner's learned advocate that if the building was not constructed according to the sanctioned plan, the Municipality could have initiated appropriate proceedings under the law. The petitioners acquired the property in 2010, a time when the property had already been mutated in the name of Sri Kanta Prosad Sinha. Considering the significant passage of time, the Municipality should not have declined to mutate the relevant records in the name of the petitioners on the grounds that the building did not conform to the sanctioned plan.

In light of the above, I dispose of the writ petition with the following directions:

The petitioners shall produce a copy of the registered Deed of Gift executed in favour of Uma Sinha by Sri Kanta Prosad Sinha and the land area certificate within one month

from the date of this order.

The petitioners shall also pay the arrear taxes, if any, for the property in question within one month from the date of this order. Subject to compliance with the aforementioned formalities, Kalyani Municipality shall mutate the relevant records in the name of the petitioners.

Accordingly, **WPA 16684 of 2024** is disposed of.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)