

D/L
Item No. 09
05.05.2025
KOLE

WPA 21686 of 2023

Pradip Mondal

-Vs.-

The Hooghly-Chinsurah Municipality & Ors.

Mr. Pratik Chandra Das,

...for the petitioner.

Mr. Tapas Kr. Ghosh,

Mr. Tanmoy Choudhury,

...for the respondent nos. 1 to 3.

The petitioner has preferred the present writ petition, assailing the refusal of mutation by the respondent-municipality in respect of his property measuring about 3 cottahs 9 chitaks 16 sq. ft. situated under Ward No. 29, Chandannagar, Paschim Mohalla, Holding No. 73/64, J.L. No. 21, Mouza : Uttar Chandannagar, R.S. Khatian No. 519, L.R. Khatian No. 1300, R.S. Dag No. 2065, L.R. Dag No. 3948.

It is the case of the petitioner that despite being the absolute owner of the property by virtue of a registered deed of conveyance dated 14.12.2012, his repeated attempts to obtain mutation have been refused due to frivolous objections raised by the private respondent, one Mr. Ujjal Ghosh.

The present litigation marks the third round of litigation initiated by the petitioner in pursuit of mutation. Initially, the petitioner filed WPA No. 24689(W) of 2016, which culminated in an order dated 10.10.2018, directing the municipality to consider his application by passing a reasoned order.

Pursuant thereto, the municipality after holding a hearing, rejected the petitioner's prayer for mutation vide order dated 22.11.2018 on the ground that an appeal bearing Misc Case No. 211 of 2006, is pending before the Learned District Judge, Hooghly, unless and until the said appeal is disposed of, the entire property is sub-judice. Aggrieved by the said order, the petitioner again approached this Court in WPA 15081 of 2019, whereunder this Court vide order dated 24.04.2023, remanded the matter to the corporation with a direction to consider the petitioner's mutation application afresh after granting hearing to the petitioner as well as the private respondent.

In compliance with the said direction, the municipality conducted a hearing on 12.07.2023, and vide a speaking order dated 17.08.2023, once again declined to grant mutation in favour of the petitioner, citing its inability to mutate the property in favour of the petitioner by way of a speaking order. Hence, the said order advising the petitioner to obtain an order from the Hon'ble Court to grant a mutation of the property in his name.

It is well settled principle of law that mutation does not confer title over the premises in question, but merely facilitates property tax assessment. In the present case, it appears that the private respondent is claiming himself to be the highest bidder in the auction conducted for the sale of the premises in question. However, he failed to make the requisite payment, no order was passed in his favour in respect of the sale of the said premises.

Upon perusal of the records and considering the submissions of the learned Advocates of the parties, this Court finds no justifiable reason for the denial of the mutation. It is pertinent to mention that the private respondent, despite raising objections has not been able to produce any legally enforceable document or title deed in support of his alleged claim. On the contrary, the petitioner holds a registered deed of conveyance which unless set aside by the Court of competent jurisdiction, entitles him to have his name mutated in the municipal records.

In view thereof, the respondent-municipality is directed to mutate the premises in question in favour of the petitioner strictly in accordance with law and subject to compliance of all necessary formalities.

Accordingly, the impugned order dated 17.08.2023 is hereby quashed and set aside. Further, the respondent-municipality is directed to consider the petitioner's application for mutation in light of the observations made by the Court.

With the above direction, WPA No. 21686 of 2023 is disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Gaurang Kanth, J.)