

S/L 12  
20.05.2025  
Court. No. 19  
*Sourav*

**WPA 24272 of 2023**

**Sudip Majumdar  
Vs.  
The State of West Bengal & Ors.**

*Mr. Partha Pratim Roy  
Mr. Dyutiman Banerjee  
Mr. Vishal Mallick*

*...for the petitioner.*

*Mr. Sk. Md. Galib, Sr. Govt. Adv.  
Ms. Sujata Mukherjee*

*...for the State.*

1. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondent no. 3 for quashing and/or setting aside the letter dated 26.05.2009 a copy of which has been annexed at Page No. 21 of the instant writ petition.
2. In course of hearing, Mr. Roy, learned advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to Page No. 10 of the instant writ petition being a copy of letter dated 06.04.2006 as issued by the Joint Secretary, Government of West Bengal, Urban Development Department addressed to the original lessee of Premises No. HB-110, Sector – III, Salt Lake, Kolkata – 700 106 according permission to transfer 30 per cent undivided share in the said premises by way of gift in favour of the original lessee's one of the brothers who is the writ petitioner before this Court.
3. It is submitted on behalf of the writ petitioner that after obtaining necessary permission, a registered deed of gift dated 30.05.2006 was executed by the original lessee of the

said premises in favour of the present writ petitioner to the extent of 30 per cent undivided share in the said premises.

4. At this juncture, it is further submitted by Mr. Roy that on 16.04.2009, the writ petitioner has made a prayer with the respondents/authorities for mutating his name in respect of his 30 per cent undivided share in the aforementioned plot and in reply to such application, the respondent no. 3/authority had issued a letter dated 26.05.2009 asking the writ petitioner to make necessary rectification in the deed of gift in order to take appropriate decision in respect of the application for mutation as filed by the writ petitioner.
5. It is submitted by Mr. Roy that while issuing the letter dated 26.05.2009, the respondent no. 3/authority has exceeded his jurisdiction inasmuch as the respondent no. 3 has got no authority to ask the writ petitioner being the donee of the said gift to rectify the deed of gift in a particular manner especially when the deed of gift as has been executed in favour of the writ petitioner was vetted by the Joint Secretary of the Urban Development Department when the donor had sought for permission to execute such gift.
6. It is thus submitted that it is a fit case for allowing the instant writ petition by granting appropriate relief/reliefs as prayed for by the writ petitioner in the instant writ petition.
7. Per contra, Mr. Galib, learned Senior Government Advocate appearing on behalf of the respondent/State in course of his submission has filed a written instruction

dated 07.02.2024 as submitted by the respondent no. 3/authority which is taken on record.

8. It is submitted by Mr. Galib that by no stretch of imagination, it can be said that the respondent no. 3 has acted without jurisdiction inasmuch as the respondent no. 3 while dealing with the application for mutation has noticed that in the said deed of lease, there is no acceptance of the present writ petitioner being the donee of the gift to the effect that he would abide by the terms and conditions of the original lease of deed as would reveal from the letter under challenge.
9. It is further submitted by Mr. Galib that in the meantime, the respondent no. 3/authority asked the writ petitioner to file appropriate documents regarding the fate of Title Suit No. 180 of 2009 as disposed of by the jurisdictional Civil Court. It is further submitted on behalf of the respondent/State that there was inordinate delay in approaching this Court on the part of the writ petitioner and the explanation as offered by the writ petitioner on account of such delay is not plausible.
10. It is further submitted on behalf of the respondent/State that the other brothers who are the co-sharers of the said property are required to be made party in this writ petition.
11. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it appears to this Court that sufficient materials have been placed before this Court that the original lessee, Mira Guha (since deceased) during her lifetime obtained a permission from the Joint Secretary of

Urban Development Department for executing a deed of gift in respect of 30 per cent undivided share in the aforementioned premises and the said communication also contained an authenticated approved proforma of the deed of gift. No materials have been placed on behalf of the State that the registered deed of gift as has been executed by and between Mira Guha (donor) and the present writ petitioner being the donee is contrary to the vetted proforma deed of gift.

12. On perusal of the letter under challenge and after hearing the learned advocate for the respondent/State it appears to this Court that it is the case of the respondent/State that while executing the deed of gift, the present writ petitioner being the donee though accepted the deed of gift but in no categorical terms it has been stated by him in the said deed of gift that he had undertaken to observe the terms and conditions of the original deed of lease as has been executed between the Government of West Bengal and the original lessee.
13. In considered view of this Court such submission on the part of the respondent/State has got no leg to stand upon in view of the fact that in internal page no. 3 of the deed of gift, it has been categorically mentioned that the donee undertook to observe all terms and conditions set forth in the original deed of lease.
14. At this juncture, if I again look to the copy of the letter dated 26.05.2009, which is under challenge before this Court, it reveals to this Court that while dealing with the application for mutation as filed by the writ petitioner, the

respondent no. 3/authority instead of allowing and/or rejecting the said application for mutation had practically advised the writ petitioner to rectify the vetted deed of gift in a particular fashion.

15. This Court considers that by issuing the letter dated 26.05.2009, the respondent no. 3/authority had practically acted in an arbitrary manner and exercised his jurisdiction not vested in law inasmuch as in dealing with an application for mutation, the respondent no. 3 being the Land Manager, Bidhannagar, Urban Development Department has got no right to ask the donee of the said deed to rectify the deed of gift in a particular fashion especially when sufficient materials have been placed that such deed of gift was executed by and between the donor and donee after according approval of the appropriate authority and also after obtaining vetted draft deed of gift.
16. In view of the discussion made hereinabove, this Court thus finds sufficient merit in the instant writ petition.
17. Accordingly, the instant writ petition is hereby allowed.
18. Consequently, the letter dated 26.05.2009 as issued by the respondent no. 3/authority is hereby set aside.
19. Consequently, the respondent no. 3/authority is directed to dispose of the mutation application in accordance with law without insisting for rectification of the deed of gift dated 30.05.2006, however, subject to compliance of other formalities by the writ petitioner including submission of certified copy of judgment and decree as passed in Title Suit No. 180 of 2009 by the learned Civil Judge (Senior Division), 2<sup>nd</sup> Court, Barasat, North 24 Parganas and/or

the certified copy of judgment and decree of the appellate Court, if therebe any.

20. The respondent no. 3/authority is further directed to pass a reasoned order after giving due opportunity of hearing to the writ petitioner and/or any other interested person(s), if therebe any, and/or their authorized representatives and to communicate the same to the writ petitioner forthwith preferably by mail, if the mail details of the writ petitioner is provided to him at the time of hearing.
21. The entire exercise as indicated hereinabove is to be completed within 60 working days from the date of communication of this order.
22. With the aforementioned observations, the instant writ petition being **WPA 24272 of 2023** is disposed of.
23. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

**(Partha Sarathi Sen, J.)**