

OD-6

WPO/1166/2024

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SUDIP BHATTACHARYYA

VS

THE STATE OF WEST BENGAL & ORS.

BEFORE :

THE HON'BLE JUSTICE PARTHA SARATHI SEN

Date: 2nd May, 2025.

Appearance :

*Mr. Gaurav Purkayastha, Adv.
...for the Petitioner.*

*Mr. Somnath Ganguli, Sr. Adv. & AGP.
...for Respondent Nos.1 & 3.*

*Mr. Dhilan Sengupta, Adv.
Mr. Ayan Chakraborty, Adv.
Ms. Sohini Mukherjee, Adv.
..for Respondent No.2.*

1. The writ petitioner, the respondent nos.1 and 3 being the State and its functionary and the respondent no.2 are represented by their respective Counsels.
2. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate Writ or Writs against the respondents authorities directing them to make necessary changes in respect of the ownership of the flat being flat no.14, Block No. F, Karaya Government Housing Estate, 98, Karaya Road, Police Station - Karaya, Kolkata -700 019 which

originally stood in the name of Purnima Bhattacharjee (since deceased), the elder sister of the writ petitioner.

3. It is submitted on behalf of the writ petitioner that the recorded owner of the said flat, i.e. Purnima Bhattacharjee (since deceased) had died leaving behind a Will whereby and whereunder the aforementioned flat was bequeathed in favour of the writ petitioner who is the brother of the said testatrix.
4. It is submitted on behalf of the writ petitioner that despite filing several representations with the functionary of the State, no steps have been taken by the respondents for mutating the name of the writ petitioner in respect of the said flat.
5. In course of hearing learned advocate appearing on behalf of the respondent-State has handed over a copy of the letter dated 14th January, 2025 as written by the respondent no.3. The said letter dated 14th January, 2025 along with its annexures is taken on record.
6. At this juncture, learned advocate for the respondent-State draws attention of this Court to the third and fourth page of the said letter wherefrom it reveals that under cover of a letter dated 7th September, 2021 the respondent no.3 requested the writ petitioner to submit certain documents to consider his prayer which includes probated Will of the said testatrix.

7. On being asked, learned advocate appearing on behalf of the writ petitioner submits before this Court that the writ petitioner is yet to obtain probate in respect of the last Will and Testament as left behind by the writ petitioner's elder sister, Purnima Bhattacharjee, the testatrix.
8. In view of the fact that no probate has yet been obtained in respect of the said last Will and Testament of the said testatrix, this Court considers that there cannot be any occasion either on the part of the respondent no.2 or on the part of the respondent no.3 to consider the application for mutation as made by the writ petitioner in respect of the aforementioned flat. This Court, thus, finds no merit in the instant writ petition. Accordingly, the instant writ petition is dismissed.
9. There shall be, however, no order as to costs.
10. Before parting with, it is, however, made clear that in the event the writ petitioner obtains probate in respect of the aforementioned Will, he is at liberty to make similar application for mutation with the respondent nos. 2 and 3 authorities and in the event such application is made by the writ petitioner, the respondent nos.2 and 3 shall consider the same in accordance with law forthwith.

(PARTHA SARATHI SEN, J.)