

GOVERNMENT OF WEST BENGAL
DEPARTMENT OF URBAN DEVELOPMENT & MUNICIPAL AFFAIRS
(U. D. BRANCH)
"NAGARAYAN", DF-8, SECTOR - I,
SALT LAKE, KOLKATA - 700 064.

No. 481(4)/Law/UDMA-15011(12)/30/2020-LS-MA SEC-Dept. of UDMA.

Dated: 24/12/2020.

From : The Joint Secretary to the
Government of West Bengal.

- To :
1. Shri Ravindra Kumar Chopra,
 2. Shri Barindra Kumar Chopra,
both residing at 88, College Road, Rabindra Nagar Complex,
Block - G, 4th Floor, Flat No. 401, Howrah - 711103.
 3. Smt. Anjana Chanda,
23-D, Bade Rajpur Road, Police Station - Jadavpur, Kolkata - 700032.
 4. Shri Amit Kumar Das,
(i) 49, Suri Lane, Police Station - Muchipara, Kolkata - 700014.
(ii) EC-130, Salt Lake, Kolkata - 700064.

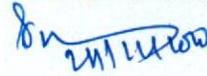
Subject : CAN No. 3949 of 2020
W. P. No. 23287(W) of 2015
Ravindra Kumar Chopra
- Vs -
The State of West Bengal & Ors.

Sir,

In compliance with the order dated 10.08.2020 passed by His Lordship The Hon'ble Justice Soumen Sen in the High Court at Calcutta on the above mentioned matter, I am directed to send herewith a copy of the Reasoned Order passed by the Principal Secretary of this Department for your information.

Enclo. : As stated above.

Yours faithfully,



Joint Secretary to the
Government of West Bengal.

No. 481(4)/Law/1(5)-UDMA-15011(12)/30/2020-LS-MA SEC-Dept. of UDMA.

Dated: 24/12/2020.

Copy alongwith a copy of Reasoned Order passed by the Principal Secretary is forwarded for information and taking necessary action to :-

1. The Land Manager, Bidhannagar.
2. Mr. Soumitra Bandyopadhyay, State Advocate, Bar Association Room No. 11, High Court, Calcutta. (E-mail : soumitra.bandyo27@gmail.com)
3. Mr. Ramchandra Guchhait, State Advocate, Bar Association Room No. 2, High Court, Calcutta. (E-mail : guchhaitbulbul@gmail.com)
4. Shri Teesham Das, Advocate, Hastings Chamber, 7C, K.S.Roy Road, (3rd Floor) Room No. 3A, Kolkata - 700 001. (E-mail : teeshamdass10@gmail.com)
5. Sr. P. S., to Principal Secretary, UD & MA Department

Enclo. : As stated above.



Joint Secretary to the
Government of West Bengal.

REASONED ORDER

W.P. No.23287 (W) of 2015

(Sri Ravindra Kumar Chopra & Anr.-Vs- State of West Bengal & Ors.)

In compliance with the order of the Hon'ble High Court dated 10/08/2020 which has been received on 04/09/2020, a hearing was arranged in the Office of the Principal Secretary, Department of Urban Development & Municipal Affairs, Govt. of West Bengal on 12.10.2020 at Nagarayan, Salt Lake, Kolkata – 700064 through Video Conference and not been provided the copy of the Writ Petition and other copy of the proceedings and without going through those papers, they are not in a position. The petitioner's advocate agreed to provide the copy of all papers relating the proceedings to all concerned. He has also submitted the copy of the order dated 17.08.2019 passed by Appellate Court by which the judgment and decree of Ld. Trial Court has been dismissed and the entire matter has been sent back to Trial Court on open remand after rejecting the application for vacating injunction order.

Therefore, another date of hearing was fixed on 26.11.2020. The matter was heard on 26.11.2020. The Petitioner contended that -

1. One plot of land of Saltlake being Plot No. EC-130 was leased out to Sri Bishnupada Das and Smt. Arati Das on 12.8.1970. Sri Bishnupada Das expired on 15.7.1990. The share of Late Bishnupada Das was mutated in favour Smt. Arati Das, Sri Amit Kr Das(son), Smt. Anjana Chanda (married daughter). Thereafter, Sri Amit Kr Das, Smt. Anjana Chanda applied for prior permission for gifting 2/3rd portion of 50 % undivided share of plot EC-130 in favour of their mother, Smt. Arati Das. Permission for gift was accorded vide no 2252 dated 23.7.2003 and subsequent memo no 842 dated 2.4.2007 for transfer of 2/3rd portion of 50 % undivided share of plot EC-130 in favour of their mother, Smt. Arati Das. Deed of gift executed on 23.4.2010 at Dist Sub-Registrar II, Barasat and some mistakes were noticed in deed of gift hence deed of declaration done on 20.7.2010. Land Manager issued Mutation Order vide no 905(2) date 19.4.2011 in favour of Smt. Arati Das who became the sole lessee of the plot EC-130 with the condition that the mutation order will be abided by the decision of Ld. Court in T.S. No 205 of 2010 filed by one Sri Tarun Kumar Das.
2. Sri Tarun Kumar Das had instituted a suit being T.S.No.205 of 2010 against the transferor, i.e. one Smt. Arati Das who is the predecessor - in - interest of the petitioners alleging that by Smt. Arati Das, Sri Amit Kr Das and Smt. Anjana Chanda where they had entered into agreement for nomination/assignment with him on 11.4.2002 and also executed GPA for the entire ground floor, roof etc. and took substantial amount of money from him. The Suit had been decreed and dismissed. Sri Tarun Kumar Das had preferred appeal. the Ld. Appellate Court has pleased to pass an order of injunction.
3. Subsequently on the basis of prayer of Smt. Arati Das before the Principal Secretary, UD for transferring her entire share in the plot to Sri Birendra Kumar Chopra and Sri

Rabindra Chopra, permission order for transfer was accorded vide no 59 dated 28.3.2013 after giving opportunity of hearing. Deed had been executed on 5.4.2013.

4. The petitioners came to know that the respondent no.5, Smt. Arati Das had died on 21/01/2014. The Cause Title of the Appeal had been amended by deleting the name of Smt. Arati Das substituting by Smt. Anjana Chanda(daughter) and Amit Kumar Das(son), recorded legal heirs of Smt. Arati Das.
5. The petitioners filed an application under Order 22 Rule 10. The same was allowed by the Appellate Court and the petitioners were added as a party respondent in the said appeal. The said Sri Tarun Kumar Das had filed an application under Order 6 Rule 17 seeking to amend the plaint.
6. The petitioners filed an application under Order 39 Rule 4 for vacating the interim order. On 17/08/2019, the Appellate Court set aside the judgement and decree of the Ld. Trial Judge, the entire case was sent back on open remand after rejecting the application for vacating injunction order. The petitioners being aggrieved by the said order of the Ld. Addl. District Judge at Barasat had preferred an appeal in terms of order 43 rule 1(u) before the Hon'ble High Court, Calcutta. The Hon'ble High Court by its order dated 24/09/2019 has been pleased to stay the order of injunction and as such, there is no restraint in having the property mutated in favour of the petitioners.
7. The present case has arisen due to non-mutation of the property in favour of Sri Birendra Kumar Chopra and Sri Rabindra Chopra. They filed the present case wherein Hon'ble High Court has passed an order on 10/08/2020 directing *inter alia* the Principal Secretary, Urban Development Deptt. to consider the application filed by the petitioners for mutation by either of the parties, if required, upon giving an opportunity of hearing to the petitioners and all persons interested in the matter.
8. At the time of hearing, the petitioner relied on and referred some cases such as Kerala High Court in WP (C) No. 2441 of 2019 (Mohammed Mansoor K. -Vs.- State of Kerala), 2019 SCC OnLine Ker 5661, W.P. No. 19749 (W) of 2012 (Arup Roy -Vs.-State of W.B. & Ors.), 2013 SCC OnLine Cal 5644, Civil Appeal No. 2398 of 2002 (Samer Kumar Pal & Anr. -Vs. - Sheikh Akbar & Ors.), (2010) 11 Supreme Court Cases 777: (2010) 4 Supreme Court cases (Civ) 567 (CP:1032). The petitioner contended that mere pendency of the Title Suit between the private parties without having any restrictive order of the Court may not be a bar in allowing mutation in favour of the petitioners.

On examination of submission of the petitioners and on examination of the available office records, it appears that -

- i. The Plot No. EC-130 was leased out to Sri Bishnupada Das and Smt. Arati Das on 12.8.1970. Sri Bishnupada Das expired on 15.7.1990. The share of Late Bishnupada Das was mutated in favour Smt. Arati Das, Sri Amit Kr Das(son), Smt. Anjana Chanda (married daughter). Subsequently on the basis of prayer of Sri Amit Kr Das, Smt. Anjana Chanda for prior permission for gifting 2/3rd portion of 50 % undivided share of plot EC-130 in favour of their mother, Smt. Arati Das, permission for gift was accorded in favour

- of Smt. Arati Das who became the sole lessee of the plot EC-130 with the condition that the mutation order will be abided by the decision of Ld. Court in T.S. No 205 of 2010 filed by one Sri Tarun Kumar Das.
- ii. One Sri Tarun Kumar Das had instituted a suit being T.S.No.205 of 2010 against the transferor, i.e. one Smt. Arati Das who is the predecessor - in - interest of the petitioners alleging that by Smt. Arati Das, Sri Amit Kr Das and Smt. Anjana Chanda where they had entered into agreement for nomination/assignment with him on 11.4.2002 and also executed GPA for the entire ground floor, roof etc. and took substantial amount of money from him.. The Suit is still pending. As respondent no.5, Smt.Arati Das had died on 21/01/2014, the case is being contested by Smt. Anjana Chanda(daughter) and Amit Kumar Das(son), recorded legal heirs of Smt. Arati Das.
 - iii. Subsequently on the basis of prayer of Smt. Arati Das before the Principal Secretary, UD for transferring her entire share in the plot to Sri Birendra Kumar Chopra and Sri Rabindra Chopra, permission order for transfer was accorded vide no 59 dated 28.3.2013 after giving opportunity of hearing. Deed had been executed on 5.4.2013.
 - iv. The present case has arisen due to non-mutation of the property in favour of Sri Birendra Kumar Chopra and Sri Rabindra Chopra.
 - v. The orders passed by Hon'ble Courts in various cases referred by the petitioners have been examined and considered.

In view of the above facts and circumstances and considering the submission of the petitioners, the available office records, it appears that a Title Suit being T.S. No 205 of 2010 filed by one Sri Tarun Kumar Das against Smt. Arati Das, the Transferor (the case is now being contested by Smt. Anjana Chanda(daughter) and Amit Kumar Das(son), recorded legal heirs of Smt. Arati Das). It is also fact that the said property has been transferred in favour of the present petitioners after taking due permission from this Department. The Deed of Assignment has been executed. Hence, the permission for mutation in favour of the present petitioners is hereby granted on the condition that such mutation will abide by any order passed by any competent Court.

The matter is thus disposed of.

All concerned be informed accordingly.

Dated: 23.12.2020



**Principal Secretary to the Government of West Bengal
Department of Urban Development & Municipal Affairs**