
(2025) 08 MEG CK 0448
In the Meghalaya High Court
Case No : Writ Petition (C) No. 491 Of 2021

Aniul Haque & Ors

APPELLANT

Vs

Shillong Cantonment Board & Ors.

RESPONDENT

Date of Decision : 06-08-2025

Acts Referred:

Citation : (2025) 08 MEG CK 0448

Hon'ble Judges : B. Bhattacharjee, J

Bench : Single Bench

Advocate : S. Sen, S.P. Mahanta, D. Das, S.D. Upadhaya

Final Decision : Disposed Of

Judgement

B. Bhattacharjee, J

Heard Mr. S. Sen, learned counsel appearing for the petitioners, Mr. S.P. Mahanta, learned Senior counsel assisted by Mr. D. Das, learned counsel appearing for the respondent Nos. 1 – 2 and Mr. S.D. Upadhaya, learned counsel appearing for the respondent Nos. 3 – 7.

1. The limited grievance raised in this writ petition is about non-disposal of the application for mutation submitted by the petitioners in respect of Holding No. 13A J.B. Jhalupara Cantonment, by the Shillong Cantonment Board.

2. The fact pleaded in the writ petition is that the petitioners are the sons of (L) Anwarul Hague who died on 21.05.2013. During his lifetime, (L) Anwarul Hague was the owner of the lease hold property covered by Holding No. 13A J.B. Jhalupara Cantonment, Shillong, which was gifted to him by one of the co-lessees of the said property namely Sk.Md. Sadique who is the respondent No.3 in this writ petition.

3. It is stated that the property was gifted by a valid deed of gift dated 23.08.2001, registered after obtaining approval from the Cantonment Board Shillong. The said gift deed subsequently was corrected by a deed of rectification

dated 01.03.2011. After the execution of the gift deed, (L) Anwarul Hague applied for mutation of the property in his name vide letter dated 22.11.2012. However, before the property could be mutated in his name, (L) Anwarul Hague passed away on 21.05.2013. Thereafter the petitioners, being the rightful legal heirs, applied for mutation of the property in their name vide letter dated 26.02.2015 addressed to the respondent No.2. Since the application for mutation submitted by the petitioners has not been considered, the petitioners have approached this Court for passing appropriate direction for consideration of the mutation application by the respondent No. 1 – 2.

4. Mr. S. Sen, learned counsel for the petitioners submits that the respondent Nos. 1 – 2 are duty bound to consider and dispose of the application for mutation submitted by the petitioners within a reasonable period of time. He submits that in spite of several persuasions by the petitioners, the respondent Nos.1 – 2 have not disposed of the mutation application. He submits that though an objection has been raised against the claim made by the petitioners by the respondent Nos. 3 – 7, the same cannot be a ground for non-disposal of the mutation application. He further submits that at the time of filing of the mutation application, there was no such objection from any co-lessees including the respondent Nos. 3 – 7. However, the respondent Nos. 3 – 7 raised their objection against the prayer of mutation only recently by filing a civil suit against them. He submits that there is no interim order passed by the Civil Court debarring the Cantonment Board from considering the application filed by the petitioners and hence, necessary direction may be issued to the respondent Nos. 1 – 2 to dispose of the mutation application filed by the petitioners within a specific period of time.

5. Mr. S.P. Mahanta, learned Senior counsel appearing for the respondent Nos. 1 – 2 submits that the pendency of the civil suit involving the property in question is the reason for non-consideration of the mutation application by the Cantonment Board. He, however, submits that if any direction is passed in this regard, the Cantonment Board will definitely take up the application for mutation filed by the petitioners for consideration and pass necessary order as deemed appropriate.

6. Mr. S.D. Upadhaya, learned counsel for the respondent Nos. 3 – 7 has objected to the prayer made on behalf of the petitioners. He submits that the gift deed in question which is made the basis for mutation application was not executed by the donor with sound mind and health. He submits that a civil suit bearing T.S. 2(H) of 2022 has already been instituted by the respondent Nos. 3 – 7 against the petitioner seeking cancellation of the gift deed. He further submits that the respondent Nos. 3 – 7 have already lodged their objection against the prayer of mutation made by the petitioners before the Cantonment Board. He, therefore, submits that since the respondent Nos. 3 – 7 have already disputed the claim of the petitioners, it will not be proper for the Cantonment Board to take up and consider the prayer of the petitioners for mutation of the property.

7. The submission made by the learned counsels for the parties have been considered carefully. It appears from the materials on record that after the execution of the gift deed and subsequent deed of rectification, the application seeking mutation of property covered by Holding No. 13A J.B. Jhalupara Cantonment was made initially by the father of the petitioners and subsequently by the petitioners. In spite of lapse of almost 10 years from the date of the submission of the mutation application by the petitioners, no order in this regard has been passed by the respondent Nos. 1 – 2. It is an admitted position that there is no interim order passed by the Civil Court debarring the Cantonment Board from considering the application filed by the petitioners. Though a plea has been raised by the learned Senior counsel appearing for the Cantonment Board that the pendency of the civil suit is a bar for consideration of the application, it is pointed out by the learned counsel appearing for the petitioners that in a similar case, the Cantonment Board had applied a different yardstick to allow mutation in respect of another property covered by Holding No.3 J.B. Sy. No. 135/5 Jhalupara Bazar in spite of pendency of civil suit.

8. As it appears that there is no legal bar for the Cantonment Board to consider the application for mutation, this Court deems it appropriate to direct the Cantonment Board to take a call on the application for mutation filed by the petitioners within a period of 2 (two) months. It is made clear that while considering the mutation application, the objection filed by the respondent Nos. 3 – 7 shall also be taken into account by the respondent Nos. 1 - 2.

9. With the above, this writ petition stands disposed of. No costs.