
(2013) 09 CAL CK 0111
In the Calcutta High Court
Case No : Writ Petition No. 17126 (W) of 2013

Dipak Kumar Roy Karmakar	Vs	APPELLANT
The State of West Bengal and Others		RESPONDENT

Date of Decision : 23-09-2013

Acts Referred:

Citation : (2014) 1 WBLR 307

Hon'ble Judges : J. Bhattacharya, J

Bench : Single Bench

Advocate : P.C. Bhattacharjee and Sumit Sen, for the Appellant; Sailaja Nanda Bhattacharya for State Biswajit Mukherjee and Arijit Dey for K.M.C., for the Respondent

Judgement

J. Bhattacharya, J.—By a registered deed of conveyance dated 12th September, 1974 Survey of India Co-operative Housing Society Ltd. sold and transferred a plot of land measuring about 3 katha chitack 36 sq.ft. being part of R.S. Dag No. 825 under R.S. Khatian No. 14 within Mouza Santoshpur Touzi No. 151, J-L- No. 22, P.S. Jadavpur, District South 24-Parganas forming Plot No. 70 in Block-B to one Probodh Chandra Mukherjee absolutely and for ever for the consideration mentioned in the said deed of conveyance. By virtue of such sale, the said Probodh Chandra Mukherjee became the absolute owner of the said property. He got his name mutated as owner of the said property in the Municipal records. Subsequently the said Probodh Chandra Mukherjee through his Power of Attorney sold and transferred the said property to the petitioner by a registered deed of conveyance date 20th December, 2002.

2. After purchasing the said property from Probodh Chandra Mukherjee, the petitioner applied for mutation of his name as owner of the said property in the Municipal records before the Municipal authority.

3. The Municipal authority insisted upon production of "Noc Letter" from the Secretary of Co-operative Society and Attested Share Certificate, Membership Certificate as a condition for mutating the petitioner's name as owner of the said

property.

4. The aforesaid decision of the Municipal authority was communicated to the petitioner by a letter written by the Deputy Assessor-Collector on 6th May, 2013 appearing at page 82 of this writ petition.

5. The legality and/or validity of such decision of the Municipal authority is under challenge in this writ petition at the instance of the petitioner.

6. Let me now consider as to how far the Municipal authority was justified in demanding those documents from the petitioner while considering the petitioner's application for mutation.

7. Here is the case where this Court finds that the land in question was sold and transferred by the Co-operative Society to Probodh Chandra Mukherjee absolutely and forever. With such transfer, the Cooperative Society lost its title over the said property.

8. Since the Co-operative Society ceased to become the owner of the said property, "No Objection Certificate" from the said Co-operative Society, in my view, is not necessary for mutating the name of the petitioner as owner thereof.

9. Furthermore, since it was a case of out and out sale, the purchaser neither acquired any membership with the said Co-operative Society nor he purchased any share in the said Co-operative Society.

10. Having regard to the fact that such transfer of ownership having been made by the said Co-operative Society in favour of a stranger and such sale was an out right sale to a non-member, there was no occasion for transfer of any share by the Co-operative Society in favour of its purchaser and as such those documents cannot be demanded by the Municipal authority from the petitioner.

11. As such, this Court holds that the documents, which were demanded by the Municipal authority as a condition for mutating the name of the petitioner as owner of the said property, need not be produced by the petitioner for recording his name as owner thereof in the Municipal records.

12. The Municipal authority is thus directed to complete the said mutation proceedings upon notice to the petitioner's vendor without insisting upon production of the documents which the Municipal authority demanded from the petitioner by the letter written by the Deputy Assessor-Collector on 6th May, 2013 appearing at page 82 of this writ petition. Such-exercise should be completed within eight weeks from the date of communication of this order. The writ petition is, thus, disposed of.