
(2010) 07 CAL CK 0035
In the Calcutta High Court
Case No : Writ Petition No. 6892 (W) of 2010

Nandeswar Nag

APPELLANT

Vs

The Government of West Bengal and Others

RESPONDENT

Date of Decision : 14-07-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 07 CAL CK 0035

Hon'ble Judges : Jayanta Kumar Biswas, J

Bench : Single Bench

Advocate : Chandan Kumar Mazumdar, for the Appellant; Supriyo Bose and Tapas Kr. Banerjee for the State, for the Respondent

Final Decision : Dismissed

Judgement

Jayanta Kumar Biswas, J.—The Petitioner in this Article 226 petition dated April 5, 2010 is questioning the reasoned order of the Estate Manager, Estate Directorate & Ex. Officio Deputy Secretary, Housing Department, Government of West Bengal dated March 16, 2010 (at p.62).

2. The Government of West Bengal issued an order dated March 5, 2001 (at p.32) regarding regularization of tenancy in favour of the actual occupants of Government flats under the Estate Directorate other than the recorded allottees or their heirs. It was decided that persons actually residing in the flats from January 1, 2000 or any date prior to that date would be eligible to apply for regularization of tenancy in their names with clear proof of their residence.

3. Seeking benefit of the Government order dated March 5, 2001 the Petitioner submitted an application dated June 25, 2001(at p.34). He stated that the flat had been originally allotted to one Arun Kumar Roy, and that he was living in the flat from November, 1999. In support of his claim he submitted copies of Ration Card, Election Commission of India Identity Card, Pay Certificate, affidavit of Arun Kumar Roy, 2 Neighbour"s Certificate. Then he moved W.P. No. 9118(W) of

2009 under Article 226 seeking an order commanding the Respondents therein to regularize the tenancy in his favour. By an order dated December 7, 2009 (at p.61) the Estate Manager was directed to give a decision. Accordingly, the Estate Manager gave the impugned decision.

4. After hearing the Petitioner the Estate Manager has recorded the following findings of fact:

(i) That he could not produce any authentic and acceptable document or evidence that proves his stay in the questioned flat B-6 at C.N. Roy Road Housing Estate since 01.01.2000 at the time of hearing.

It may be noted here that only those unauthorised occupants who have been staying in Govt. flats since 01.01.2000 or any prior date under control of Estate Directorate are entitled to regularisation of tenancy as per Government Order No. 1613-E.D. dated 05.03.2001.

Moreover it may be mentioned here that Ration Card/Voter's I. Card is a document issued by the Govt. Authority after verification of the address of the holder. So, it is a most reliable address proof. A document which contains the address of the holder as disclosed or furnished by him falls short of the proper document which could be relied upon as a proof of the residence of the holder.

5. Counsel submits that the findings of fact recorded by the Estate Manager are contrary to the facts revealed by the documents considering which the findings were recorded. He relies especially on the document at p.35.

6. The document at p.35 is a certificate dated June 14, 2001 issued by one Dr. K.V. Devidas, an Assistant Director-in-charge of Central Research Institute (Ayurveda) that the Petitioner working in the hospital section of the Institute was residing " in C/O Arun Roy, Block-B, Flat-6, C.N. Roy Road, Govt. Housing Estate, Kolkata-700 039 since 1999."

7. Counsel for the State rightly submits that the certificate does not show that the Petitioner was residing in the flat independently from January 1, 2000 or before. The document at p.39, an affidavit affirmed by Arun Kumar Roy, the original allottee, also shows that Arun Kumar Roy was residing in the flat even at the date he affirmed the affidavit. It was affirmed on June 15, 2001.

8. The document at p.40 is the Ration Card. It is also dated June 15, 2001. The document at p.41 is the Petitioner's Election Commission of India Identity Card issued in 1995. Copy of the reverse thereof has been deliberately withheld. The address of the holder of a card is written on the reverse thereof. It is to be noted that the application for regularisation was made on June 25, 2001.

9. It is, therefore, evident that with a view to taking undue advantage of the Government order dated March 5, 2001 the Petitioner procured the Ration Card on June 15, 2001. It is the most important document relying on which the Estate Manager disbelieved the Petitioner's case that he was residing in the flat as an

unauthorised occupant at least from January 1, 2000.

10 .The documents produced by the Petitioner clearly showed that even on June 15, 2001 Arun Kumar Roy, the original allottee of the flat, was residing in the flat. I am, therefore, unable to accept the argument that the findings of fact recorded by the Estate Manager are perverse. There is absolutely no reason to interfere with the findings. The Petitioner failed to prove before the authority that he was independently residing in the flat originally allotted to Arun Kumr Roy from January 1, 2000 or before.

For these reasons, the petition is dismissed. No costs. Certified xerox.