



2025:CHC-AS:1931

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

RESERVED ON: 17.09.2025
DELIVERED ON: 25.09.2025

PRESENT:
THE HON'BLE MR. JUSTICE GAURANG KANTH

WPA 20095 OF 2024
WITH
CAN 1 OF 2025

SMT. DIPALI RANI BISWAS
VERSUS
THE STATE OF WEST BENGAL & ORS.

Appearance:-

Mr. Surya Prasad Chattapadhyay, Adv.
Mr. Arjun Samanta, Adv.
Ms. Trishtrya Mancherji, Adv.

..... for the Petitioner.

Mr. Sirsanya Bandyopadhyay, Adv.
Mr. Arka Kumar Nag, Adv.
Mr. Tirthankar Dey, Adv.

..... for the BMC.

Mr. Joydip Banerjee, Adv.
Mr. Soumen Chatterjee, Adv.

.....for the State.

JUDGMENT

Gaurang Kanth, J. :-

1. The Petitioner has preferred the present writ petition challenging the inaction of the respondent authorities in not carrying out the mutation of the land measuring 0.62 acres situated at Mouza Krishnapur, having J.L No. 17, R.S Khatian No. 1500 and 1503 (modified Khatian No. 1161), C.S Dag No. 6256, R.S Dag No. 4371 under the police station East Salt Lake, District 24 Pargnas (North), Kolkata-700091 in the name of the Petitioner.



2. The facts as emerged from the present writ petition are as follows:
3. It is the case of the Petitioner that one *Smt. Nanibala Dasi* and *Smt. Mangaladevi Dasi* were the absolute owners of the land in question. They gifted the said land to the Petitioner by way of a registered Gift Deed bearing No. 4519 of 1971, executed on 20.09.1971 before the Sub-Registrar, Cossipore, Dum Dum. By virtue of the said registered deed of gift, the Petitioner became the absolute owner of the said premises and has been in continuous, uninterrupted, and actual physical possession thereof from the date of execution till date, without any encumbrance whatsoever.
4. The Petitioner, thereafter, applied for mutation of the said property in her name by filing an application dated 26.02.2010. However, the Respondent refused to effect such mutation on the basis of an Office Memorandum dated 28.06.2010, wherein it was alleged that the land in question had been acquired by the State authorities.
5. Being aggrieved thereby, the Petitioner preferred *W.P.A. No. 713 (W) of 2011*. The said writ petition was disposed of by this Hon'ble Court by order dated 14.02.2011, holding inter alia that, in terms of Memo dated 19.03.2010 and Memo dated 17.01.2011 issued by Respondent No. 7, there was no proposal for acquisition of the land in question. Accordingly, no further order was required to be passed.
6. Thereafter, the Petitioner submitted all relevant documents and again sought mutation of the property in her name. The Respondent Municipal Corporation, however, directed the Petitioner to obtain a *No Objection Certificate* (NOC) from the Department of Urban Development and Municipal Affairs. The Petitioner submitted multiple representations,



including those dated 02.11.2011 and 22.11.2011, requesting issuance of such NOC, but no response was ever received.

7. Being further aggrieved, the Petitioner instituted the second round of litigation by filing *W.P. No. 21066 (W) of 2011* seeking issuance of a mutation certificate. This Hon'ble Court, by order dated 13.01.2012, disposed of the writ petition by directing the Respondent Municipal Corporation to dispose of the Petitioner's application dated 26.02.2010 within four weeks from the date of communication of the said order. Despite such direction, the Respondent Corporation failed to effect the mutation, citing absence of an NOC from the Department of Urban Development.
8. The Petitioner thereafter approached various departments through applications under the Right to Information Act. By reply dated 23.02.2018, the Urban Development and Municipal Affairs Department categorically clarified that issuance of a mutation certificate falls exclusively within the domain of the concerned Municipality. Further, by RTI reply dated 16.04.2018, the Land Acquisition Department, North 24 Parganas, confirmed that the land in question had never been acquired by the Government at any point of time.
9. Despite such clear clarifications, the Respondent Municipality failed to effect the mutation. The Petitioner again submitted a representation dated 19.07.2024, requesting mutation of the property in her favour. However, till date, no steps have been taken by the Respondent Municipality, thereby compelling the Petitioner to file the present writ petition.

**Submission on behalf of the Petitioner**

- 10.** Learned Counsel for the Petitioner submits that the land in question has never been acquired by the State authorities, and the Petitioner has been in lawful, peaceful, and uninterrupted possession thereof ever since the execution of the registered Gift Deed in her favour. The said land is absolutely free from all encumbrances. Yet, despite the Petitioner's clear title and possession, the Respondent Corporation is arbitrarily and without any lawful basis denying mutation in favour of the Petitioner, by imposing an unwarranted condition of obtaining a *No Objection Certificate* from the Department of Urban Development and Municipal Affairs.
- 11.** It is further submitted that the Land Acquisition Department, North 24 Parganas, vide RTI reply dated 16.04.2018, has categorically confirmed that the land in question has never been acquired by the Government. In the face of such unequivocal clarification, the persistent refusal of the Respondent Corporation to effect mutation amounts not only to arbitrary and high-handed conduct but also to deliberate disregard of the lawful rights of the Petitioner. More importantly, despite specific directions of this Court on earlier occasions, the Respondent Corporation has failed and neglected to comply with the same. Such conduct, being in clear defiance of judicial orders, strikes at the root of the rule of law and amounts to wilful disobedience. Judicial intervention has, therefore, become imperative to secure compliance with the binding directions of this Court and to protect the lawful rights of the Petitioner.



Submission on behalf of Respondent No. 4 (Department of Urban Development & Municipal Affairs)

- 12.** The Deputy Secretary, Department of Urban Development & Municipal Affairs (UDMA), Government of West Bengal, has filed an affidavit-in-opposition stating that the land in question falls within the ambit of lands held and administered by the Department of UDMA. This classification was already communicated to the Block Land & Land Reforms Officer (BL&LRO), Rajarhat, vide Memo dated 15.07.2025. The land, being Dag No. 4371, measuring 0.276 acres and classified as *Bill*, stands fully acquired by the Government. The said acquisition was completed under Case No. D/9 of 1956-57 and is permanently recorded in the name of the Urban Development Department.
- 13.** It is further submitted that the entire Salt Lake Township (Phases I to V) is a planned urban development project. The process of land allotment within Salt Lake Township has always followed a structured and transparent protocol. Allotment is made only to the eligible applicants upon submission of duly completed applications. Upon allotment, the allottee is required to pay the prescribed *salami* (premium) for the allotted plot. Thereafter, a deed of lease assignment is executed between the Government of West Bengal and the allottee/lessee, which is duly registered before the appropriate ADSR Office. Physical possession of the land is then delivered to the allottee/lessee by the Salt Lake Reclamation and Development Circle (SLDRC).
- 14.** As per official records, the Petitioner has not submitted any document in conformity with the prescribed lawful procedure. No *salami* receipt, deed of assignment, or government order of allotment has been produced in



support of her alleged claim. The Respondent, therefore, contends that the Petitioner is attempting to lay claim over Government land by relying on illegal and fabricated documents. In view of the above, it is prayed for the dismissal of the present writ petition.

Legal Analysis

- 15.** This Court has heard the arguments advanced on behalf of both parties and carefully examined the documents placed on record.
- 16.** The Petitioner claims to be the absolute owner of the property by virtue of a registered Gift Deed dated 20.09.1971 and asserts that she is in physical possession thereof. She applied for mutation on 26.02.2010. However, despite repeated proceedings, mutation has not been effected. The Respondent-Corporation has objected on the ground that a 'No Objection Certificate' from the Department of Urban Development & Municipal Affairs (UDMA) is required, since the land stands recorded as acquired Government land.
- 17.** In its affidavit, the Deputy Secretary, Department of UDMA, has categorically stated that the land in question, being Dag No. 4371 measuring 0.276 acres, was duly acquired under Case No. D/9 of 1956-57 and permanently recorded in the name of the Urban Development Department.
- 18.** Relying upon the RTI replies dated 23.02.2018 issued by the Department of UDMA and 16.04.2018 issued by the Additional Land Acquisition Collector, North 24 Parganas, the Petitioner contends that the land in question has never been acquired by the State Government.
- 19.** Section 116 of the *West Bengal Municipal Act, 1993* provides that whenever the title of any person to any land or building is transferred, such person,



if primarily liable for the payment of property tax, shall give notice of such transfer to the municipality in the prescribed form. Upon such notice and production of supporting documents, the municipality may record the change in its assessment books. These provisions make it clear that mutation is essentially an administrative exercise for fiscal purposes, intended to identify the person liable to pay municipal taxes.

- 20.** It is a settled principle of law that mutation does not create, extinguish, or confer title in respect of immovable property; it merely follows the ownership already established by valid title documents.
- 21.** Further, when land stands acquired or vested in the State Government under a valid acquisition proceeding, the ownership of the land irrevocably passes to the Government. In such circumstances, no private transfer, gift deed, or claim can override the vesting already effected by law. Consequently, the municipal authority cannot mutate the name of any private individual in respect of such land, as this would be contrary to the acquisition records and would amount to recognising a right that the law does not permit.
- 22.** Since the Department of UDMA is maintaining the stand that the land in question already stands acquired in its favour, this Court finds no illegality or infirmity in the stance of the Respondent-Corporation that, unless a No Objection Certificate is issued by UDMA, mutation cannot be effected in favour of the Petitioner.
- 23.** Accordingly, the present writ petition, being devoid of merit, is dismissed. The interim order dated 20.01.2025, which was extended from time to time, is hereby vacated. It is, however, made clear that if the Petitioner is aggrieved by the stand taken by the Department of UDMA, she shall be at



liberty to challenge the same in accordance with law in appropriate proceedings.

24. CAN 1/2025 is also dismissed.

(Gaurang Kanth, J.)

SAKIL AMED (P.A)

