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22.12.2023
Court No. 35
D.Hira

WPA 3877 of 2018
With
CAN 1 of 2018 (Old No. 7555 of 2018)
With
CAN 2 of 2023

Namita Rani Das
Vs.
The State of West Bengal & Ors.

Ms. Santi Das.
... for the petitioner

Mr. Pinaki Dhole,
Mr. Avishek Prasad.
... for the State

Parties are represented.

Mr. Pinaki Dhole, learned counsel appearing for the State seeks leave to move the case on a subsequent day, as he is not equipped with the brief at present. However, considering the innocuous prayer of the petitioner and the fact that Mr. Dhole is fairly acquainted with the facts and circumstances of the case, the matter is taken up for hearing.

There is an application pending with the writ petition, for substitution of the legal heir of the writ petitioner, who has died on 02.07.2018.

The grounds pleaded therein are sufficient.

Let the application being CAN 1 of 2018 (Old No. CAN 7555 of 2018) be allowed.

Let the name of the successor of the writ petitioner Namita Rani Das since deceased be incorporated in place and stead of Namita Rani Das in W.P. 3877 (W) of 2018.

Department shall make necessary changes, in the cause title of this writ petition.

The grievance ventilated in this case is of non-supply of a registered deed of conveyance by the respondent no. 4/Registrar of Assurance, to the writ petitioner.

The sale deed is said to have been registered on 24.08.2005. Since thereafter, due to deficit of stamp duty of an amount of Rs.1,22,750/-, the sale deed has not been handed over to the writ petitioner (now deceased), by the respondent no. 4/Registrar of Assurance – II, Kolkata.

As the time passed, certain major changes in the circumstances happened, as the vendor as well as the developer, who were the other parties in the said deed, had died in the meantime.

The writ petitioner (substituted) now desires to submit the deficit stamp duty of Rs.1,22,750/- and receive the original sale deed. For this, he has been asked to submit certain documents relating to his identity which, the petitioner says, has already been submitted in the office of the Registrar of Assurance – II, Kolkata.

Mr. Dhole, is of serious objection as regards the contentions and prayer of the writ petitioner. He says that according to his instructions, the deed has not yet been registered and the signatures of the parties have not yet been subscribed thereto. He says that the said deed was only presented for registration and the entire process of registration is yet to be undergone and completed.

According to him, in that event, without registration of the document, the same can not be handed over to the writ petitioner, as prayed for.

Considering the facts and circumstances of the case, the writ petition is disposed of with the directions. (i) The writ petitioner (substituted) shall submit a representation before the respondent no. 4, with his prayer, as made in this writ petition.

(ii) Upon receipt of the said representation, the respondent no. 4/Registrar of Assurance – II, Kolkata shall ascertain if the process of registration of the concerned document, has been otherwise complete, excepting the requirement of payment of the deficit Court fees. In doing so, the said respondent no. 4, shall afford an opportunity of hearing to the writ petitioner (substituted) and any other person/s, if it so thinks fit.

(iii) In the event, if the said respondent is satisfied regarding completion of the registration process of the said document, excepting payment of deficit Court fees, it shall immediately accept from the writ petitioner (substituted) the deficit Court fees amount of Rs.1,22,750/-.

(iv) Thus when the respondent no. 4 is satisfied about due completion of registration of the document, he shall immediately hand over the same, to the writ petitioner (substituted).

(v) The respondent no. 4, shall dispose of the petitioner's representation, by a reasoned order.

(vi) The entire exercise as above, shall be completed within a period of eight weeks from the date of receipt of a representation, of the writ petitioner (substituted).

WPA 3877 of 2018 is disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to its parties on usual undertaking.

(Rai Chattopadhyay, J.)