

W.P.A. 19672 of 2017

**Md. Moinuddin
Vs.**

The Kolkata Municipal Corporation & Ors.

Mr. S.P. Lahiri
Sk. Nizamuddin
Ms. Barnali Gupta
Mr. Rajesh Naskar

....for the petitioner

Mr. Gopal Chandra Das
Mr. Ranajit Chatterjee

...for the KMC

Mr. Dilip Kumar Chatterjee

...for the respondent no. 4

Matter relates to mutation of name of the petitioner in connection with premises No. 53, Dilkhusha Street under Ward No. 64 within the jurisdiction of Kolkata Municipal Corporation (for short, KMC).

Learned advocate representing the petitioner submits that the plot of land measuring 11 cottah 8 chitaks was owned by Bholanath Ghosh and others and father of the petitioner Md. Naimuddin along with one Abdul Majid Khan purchased the property by a registered deed of conveyance in the year 1957. Said Md. Naimuddin father of the petitioner died intestate on 24th October, 1988 leaving behind the petitioner Md. Moinuddin as his only legal heir and another joint purchaser namely Abdul Majid Khan also died intestate on 26th August, 1991 leaving behind his son Iftekar Ahmed Khan being the only heir.

It has been contended on behalf of the petitioner that since his father was one of the joint owners of the aforesaid property the KMC ought to have recorded the name of the petitioner in the assessment register by mutation but without carrying out the same exercise it has been intimated to the petitioner that Eastern Railway Authority has been mutated in the assessment register of the KMC in connection with the aforesaid property. According to the petitioner such steps taken by the KMC is erroneous since *predecessor-in-interest* of the petitioner along with one Abdul Majid Khan by executing deed of conveyance in 1957 got the ownership of the said property.

Mr. Ranajit Chatterjee, learned Counsel representing the KMC submits that one of the contentions made before the Corporation on behalf of the petitioner was Tiljala Road was renamed as Dilkhusa Street and Dilkhusa Street was renamed as Dr. Biresh Guha Street. But it has been recorded in the order dated 31st May, 2017 passed by the Assessor-Collector (South), Kolkata Municipal Corporation that on inspection it was found that 30/1, Tiljala Road, Kolkata-700017 under Ward No. 59 still exists on relevant record of KMC and 53, Dilkhusa Street renamed as Dr. Biresh Guha Street under Ward No. 64 is also still existing on the record of KMC. It is also recorded in the order dated 31st May, 2017 that Ward No. 59 under which premises no. 30/1,

Tiljala Road is situated has never been changed to Ward No. 64. It has also been found on inspection as it emanates from the said order dated 31st May, 2017 that recorded owner of both the premises being 30/1, Tiljala Road under Ward No. 59 and 53, Dilkhusa Street (present name Dr. Biresh Guha Street) under Ward No. 64 is Eastern Railway, Sealdah Division. According to the KMC the claim of the petitioner relating to mutation is based on one of the facts that Tiljala Road has been renamed as Dilkhusa Street which is not correct.

This Court has heard the submissions made by the learned advocates representing the parties and also perused the decision of Assessor-Collector (South), Kolkata Municipal Corporation dated 31st May, 2017 which is the subject matter of challenge in the present writ petition.

Petitioner is claiming mutation of his name on the strength of registered conveyance deed which was executed in the year 1957 in favour of his father and another co-purchaser, namely, Abdul Majid Khan whereas in the order dated 31st May, 2017 the KMC has made it clear that in connection with both the premises no. 30/1, Tiljala Road under Ward No. 59 and 53, Dilkhusa Street (present name Dr. Biresh Guha Street) under Ward No. 64, Eastern Railway, Sealdah Division has been mutated and accordingly inducted in the

assessment register which is disputed by the petitioner on presenting this writ petition.

The decision of the municipal body like KMC to mutate the name of a person or authority in connection with the property enables that person or authority to pay municipal taxes and such decision is taken based on relevant materials produced by the parties before the concerned municipal body/corporation. The decision relating to mutation does not vindicate right, title and interest of the party/authority over the property in question; it only confers right upon the party/authority to pay municipal taxes, not beyond that.

In the present case the petitioner has laid claim to have his name mutated in the assessment register based on the right of his *predecessor-in-interest* on the strength of registered conveyance deed which is alleged to have been executed in the year 1957. The right of the petitioner being the *successor-in-interest* in connection with the said property needs to be decided by the appropriate civil court and the same is not to be decided by the KMC while taking decision on mutation.

In view of the dispute involved in the present writ petition and in consideration of the decision taken by the Assessor-Collector (South), Kolkata Municipal Corporation dated 31st May, 2017 at present no relief can be granted to the petitioner save and except granting him leave to take appropriate steps in accordance with law for

vindication of his grievance relating to his right, title and interest over the property in question.

Accordingly, the writ petition stands disposed of.

There shall be no order as to costs.

However, it is made clear that this Court has not gone into the merit of the issue relating to right, title and interest of the petitioner over the property in question.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)