

In the High Court at Calcutta

Constitutional Writ Jurisdiction

Appellate Side

12 12.11.2025
Sc Ct. no.3

WPA 8133 OF 2025

Santanu Mukherjee & Ors.

VS.

The Kolkata Municipal Corporation & Ors.

For the Petitioners : Mr. Alak Kumar Ghosh, Ld. Sr. Adv.
Mr. Sandip Kumar De
Mr. Abhik Chitta Kundu.

For the Respondents/KMC:

Ms. Piyali Sengupta
Ms. Debangana Dey Nayak.

1. The present writ petition has been filed, *inter alia*, praying for a direction upon the respondents to mutate the names of the petitioners in respect of 16A Hazra Road, Police Station – Bhawanipore, Assessee No.110721300596, Kolkata – 700026 on the basis of the application for mutation filed by the petitioners.
2. Records would reveal that although the petitioners had applied for mutation, a hearing had also taken place, since, the respondents were not processing the same, the petitioners were constrained to approach this Hon'ble Court in WPA 25600 of 2024. By an order dated 17th December, 2024 this Court had disposed of the writ petition by directing the Assessor-Collector (South), Kolkata Municipal Corporation to communicate the reasoned decision resulting from the hearing dated 11th September, 2024.

3. Pursuant to the aforesaid order by forwarding a letter dated 25th January, 2025, the petitioners were communicated with an order dated 5th October, 2024, issued by the Deputy Assessor-Collector (South), Assessment Collection Department, Kolkata Municipal Corporation.
4. From the above order it transpires that since it was not clear why the petitioner no.1 had submitted two varied Boundary Declarations, the same had created doubt as regards the veracity of the petitioners' claim. Accordingly, the petitioners were directed to submit additional and necessary documents in support of their claim for verifying the land records, and make a Boundary Declaration for the purpose of completion of the pending assessment, especially to comply with the requirement of the Unit Area Assessment system.
5. Following the above, the petitioners by cover of a letter dated 8th February, 2025 forwarded the respondents the Deed of Declaration dated 7th February, 2025 which, *inter alia*, included a Boundary Declaration along with other requisite documents.
6. Upon receipt of such communication, the Assistant Assessor-Collector (South) by a written communication dated 11th March, 2025 had noted that the Boundary Declarations provided by the petitioners vide Deed of Declaration dated 8th February, 2025 and the previous declarations submitted by the petitioners were self-contradictory,

as such, the petitioners were requested to submit the registered Deed in respect of premises in question at the earliest for completion of the pending assessment.

7. Following the above, the petitioners having realized that there had been inconsistencies in the Boundary Declarations submitted by them had forwarded the respondents with yet another Boundary Declaration dated 24th March, 2025 which is registered with the Deputy Sub-Registrar IV, Alipore South 24 Parganas and accordingly informed the respondents that the aforesaid declaration was final and the earlier declarations submitted by the petitioners stood cancelled.
8. Despite the above and since the matter did not move further, the petitioners were constrained to file the instant writ petition. By an order dated 10th September, 2024 this Court had entertained the writ petition and had granted leave to the respondents to file a report by way of an affidavit.
9. Pursuant to the aforesaid, Ms. Sengupta, learned Advocate representing the respondents has filed a report on affidavit affirmed on 22nd September, 2025. The same is taken on record.
10. From such report and from the submissions made by Ms. Sengupta in Court I find that the only objection of the respondents to mutate the property is the absence of a valid Boundary Declaration which is a primary requirement for the Unit Area Assessment.

According to Ms. Sengupta without a valid Boundary Declaration it shall not be possible for the Municipal authority to ascertain and assess the valuation of the property and it is for such reason the appropriate registered document to support the Boundary Declaration had been sought for.

11. This apart, according to Ms. Sengupta there is one more incongruity in the Boundary Declaration though, a probate had been submitted by the petitioners, in the boundary declaration it is claimed that Rekha Mukherjee daughter of Sashi Mukherjee died intestate, notwithstanding the probate having been granted in respect of the last Will and Testament executed by Rekha Mukherjee, widow of Santosh Kumar Mukherjee by the District Delegate at Alipore, South 24-Parganas in Act XXXIX Case No.43 of 2020 (Probate). The above creates a serious doubt as regards the Boundary Declaration.

12. Mr. Ghosh, learned Senior Advocate ably assisted by Mr. De, learned Advocate appears for the petitioners and would submit that admittedly the property had been mutated in the name of one Soshi Coomer Banerjee. There is no dispute with regard to the same. It appears that though an incorrect statement as regards Rekha Mukherjee has been made, in the light of grant of probate, and disclosure of all documents, the same should be ignored.

13. Having heard learned Advocates appearing for the respective parties I find that the devolution of interest in favour of the petitioners from Soshi Coomer Banerjee, the original recorded owner, is not in dispute, what is in dispute is the Boundary Declaration.
14. In my view, the aforesaid aspect can be resolved in the event an inspection is carried out by the respondents.
15. If the respondents are not willing to accept the Boundary Declaration it shall be open to the respondents to carry out an inspection of the premises in question and survey the said premises at the costs and expense of the petitioners. However, the same should not stand in the way of the respondents from processing the petitioners' application for mutation.
16. Accordingly to resolve the impasse I direct the respondents to carry out an inspection of the property in question subject to the petitioners depositing costs of Rs.50,000/- (Rupees fifty thousand only) with the respondents within a week from date.
17. If such costs are deposited, the respondents shall carry out a survey of the petitioners' property in question within a week therefrom upon notice to the petitioners and complete the formalities in relation to mutation and take a decision on the petitioners'

application as expeditiously as possible but not later than four weeks from the date of holding such survey.

18. With the above observations and directions this writ petition stands disposed of.

19. The parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Raja Basu Chowdhury, J.)