

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

**RESERVED ON: 24.09.2025
DELIVERED ON: 06.11.2025**

**PRESENT:
THE HON'BLE MR. JUSTICE GAURANG KANTH**

WPA 23326 OF 2025

MANI SQUARE LIMITED & ANR.

VERSUS

THE KOLKATA MUNICIPAL CORPORATION & ORS.

Appearance:-

**Mr. Joydip Kar, Sr. Adv.
Mr. Arindam Banerjee, Sr. Adv.
Mr. Pranit Bag, Adv.
Ms. Riturparna Chatterjee, Adv.
Ms. Amani Kayan, Adv.
Ms. Sadia Sultana, Adv.
Ms. Megha Yadav, Adv.**

..... for the Petitioner.

**Mr. Biswajit Mukherjee, Adv.
Ms. Manisha Nath, Adv.**

..... for the KMC

**Mr. Jishnu Chowdhury, Adv.
Mr. Soumabho Ghose, Adv.
Mr. Pushan Kar, Adv.
Mr. Sagnik Kar, Adv.
Ms. Shreya Ghosh Dastidar, Adv.**

.....for the respondent nos. 4 to 7

JUDGMENT

Gaurang Kanth, J. :-

1. The Petitioner has preferred the present writ petition seeking implementation of the judgment dated 27.07.2022 passed by the Hon'ble Supreme Court of India in *Civil Appeal No. 2402 of 2015*, titled *Nemai*

Chandra Kumar (Deceased) through Legal Heirs vs. Mani Square Ltd. (reported as 2022 SCC OnLine SC 920). The Petitioner further prays for an appropriate direction to the Respondent Corporation to reinstate and record the Petitioner's name as the sole owner of the premises situated at Holding No. 195, Picnic Garden Road, Kolkata, pertaining to Assessee No. 210671801842, in the municipal records maintained by the said Corporation. The Petitioner also seeks correction of the description of the said premises by removal of the prefix "T" and restoration of its status as a non-Thika property.

2. The facts relevant for the purpose of adjudication of the present case are as follows.
3. One Laxmi Narayan Ghosh was the owner of a parcel of land measuring approximately 2 Bighas, 10 Kottahs, and 3 Chhitacks, comprised in Holding No. 195, Picnic Garden, Tiljala. The said Laxmi Narayan Ghosh died intestate on 23.07.1950, leaving behind his wife Smt. Nilu Bala Ghosh and his son Jitendra Nath Ghosh as his only legal heirs. Upon the death of Smt. Nilu Bala Ghosh, who also died intestate on 07.12.1970, Jitendra Nath Ghosh became the absolute owner of the said property.
4. On 15.12.1973, Jitendra Nath Ghosh executed a registered deed of lease in favour of Badri Narayan Kumar (father of Respondent No. 4-7) and Nemai Chandra Kumar (father of Respondent No. 3), who claimed and represented themselves to be the proprietors of *M/s. Kumar Industries*, thereby leasing out the said property for a term of 20 years, commencing from 01.12.1973 and expiring on 30.11.1993, at the rent and on the terms and conditions specified therein. Under the said lease, the lessees were permitted to construct structures upon the demised land and to use and

enjoy the same during the subsistence of the lease. It was expressly stipulated that upon expiry of the lease on 30.11.1993, the lessees would deliver vacant and peaceful possession of the property to the lessor in its original condition, after removing all structures erected thereon. It is an admitted position that certain structures were constructed by the lessees during the lease period.

5. On 18.01.1982, the Calcutta Thika Tenancy (Acquisition and Regulation) Act, 1981 came into force. Soon thereafter, Jitendra Nath Ghosh filed a writ petition before the Hon'ble High Court at Calcutta under Article 226 of the Constitution of India, challenging the vires of the said Act. The said writ petition, being C.R. No. 10449 (W) of 1983, was entertained, and by interim order dated 30.09.1983, the operation of the *Act of 1981* and the Rules framed thereunder was stayed in respect of the subject property. Various interim orders were passed from time to time, and the writ petition was subsequently transferred to the Thika Tribunal for appropriate adjudication.
6. In the meantime, the lease granted in favour of *M/s. Kumar Industries* expired by efflux of time on 30.11.1993, and thereafter, the lessees ceased to have any right, title, or interest in the said property.
7. Upon the enactment of the Calcutta Thika Tenancy (Acquisition and Regulation) Act, 2001, *M/s. Kumar Industries*, through its partners, filed an application before the Thika Controller on or about 10.04.2003, being Return No. 67/234, seeking a declaration that they were *Thika tenants* in respect of the subject property. They further claimed to have deposited rent with interest with the Controller for the period from 18.01.1982 to 2007. The Controller, by order dated 27.01.2010, allowed the said

application and declared M/s. Kumar Industries as Thika tenants in respect of the said premises.

8. In the meantime, upon the demise of Jitendra Nath Ghosh, his legal heirs executed a deed of conveyance dated 10.09.2007, transferring the said property to seven companies, including M/s Mani Square Ltd. (the *Petitioner herein*). The transferees duly intimated the Assessor, Tollygunge Tax Department, Kolkata Municipal Corporation, of such transfer by their letter dated 13.09.2007. Pursuant thereto, the said seven companies applied for mutation of their names in the municipal records, which was granted vide mutation certificate dated 04.10.2008. Subsequently, by order dated 19.09.2008, this Court sanctioned a Scheme of Amalgamation, whereby the said six companies were amalgamated with the Petitioner (M/s Mani Square Ltd), and consequently, all assets and properties of the amalgamating companies vested in the Petitioner. Thereafter, on 15.07.2010, the Petitioner submitted an application before the Kolkata Municipal Corporation in the prescribed form, seeking mutation of the said property exclusively in its own name.
9. At that stage, the Petitioner was informed that the Thika Controller, by order dated 27.01.2010, had declared the erstwhile lessees, *M/s. Kumar Industries*, as *Thika tenants* in respect of the said property, and accordingly, the said property had already been mutated in their name. The Petitioner contends that such mutation was effected in violation of the principles of natural justice, as no notice was served upon them.
10. The Petitioner thereupon filed objections before the Thika Controller. The Controller considered the said objections and vide order dated 01.08.2012 rejected the said objections and upheld the earlier order dated 27.01.2010.

11. Aggrieved thereby, the Petitioner herein preferred an appeal before the Thika Tenancy Appellate Tribunal, being O.A. No. 2833 of 2012. By order dated 18.11.2013, the Tribunal dismissed the said appeal and affirmed the order of the Controller.
12. Being further aggrieved, the Petitioner preferred W.P.L.R.T. No. 325 of 2013 before this Court. By judgment dated 10.03.2014, the Hon'ble Division Bench allowed the said writ petition and set aside the orders passed by both the Controller and the Appellate Tribunal.
13. The said judgment was challenged before the Hon'ble Supreme Court of India in Civil Appeal No. 2402 of 2015, which was originally allowed by judgment dated 24.02.2015. A Review Petition, being No. 1483 of 2015, was thereafter filed and the same was allowed vide order dated 03.03.2021. Upon rehearing, the Civil Appeal was dismissed by the Hon'ble Supreme Court by judgment dated 27.07.2022. The Review Petition (No. 1206 of 2022) and Curative Petition (No. 40 of 2023) filed against the said judgment were dismissed.
14. Pursuant thereto, the Petitioner once again, by representations dated 19.06.2023 and 30.12.2024, approached the Respondent Corporation seeking mutation of the said property in its name. However, the said request has not yet been acted upon. Being aggrieved thereby, the Petitioner has preferred the present writ petition.

Submissions on behalf of the Petitioner

15. Learned Senior Counsel for the Petitioner, Mr. Jaydeep Kar, submits that, by virtue of a registered Deed of Conveyance dated 10.09.2007, the Petitioner, along with six other companies, became the joint owner of the premises in question. The said property was duly mutated in their favour

by the Respondent Corporation vide Mutation Certificate dated 04.10.2008. Meanwhile, pursuant to the order dated 19.09.2008 passed by this Court sanctioning a Scheme of Amalgamation, the six aforementioned companies were amalgamated with the Petitioner No. 1. As a result thereof all assets, properties, and interests of the amalgamating companies vested unequivocally in the Petitioner. It is therefore submitted that the Petitioner became the absolute owner of the premises in question. Accordingly, in terms of Section 183 of the Kolkata Municipal Corporation Act, 1980, the said premises are required to be mutated in the name of the Petitioner.

16. Learned Senior Counsel further submits that M/s Kumar Industries (partners being the predecessors-in-interest of the private respondents No. 3 to 7) were the erstwhile lessees, and their lease stood terminated by efflux of time on 30.11.1993. Thereafter, the said lessees ceased to have any right, title, or interest in the subject property. The private respondents Nos. 3 to 7, being successors-in-interest of the said erstwhile lessees, similarly have no right, title, or interest in the premises in question. It is contended that the Respondent Corporation erroneously recorded the name of the erstwhile lessees as *Thika tenants* in respect of the said premises without affording any opportunity of hearing to the Petitioner. It is further submitted that the premises in question is not a Thika property, and this position has been conclusively settled by the Hon'ble Supreme Court vide Judgment dated 27.07.2022 in *Civil Appeal No. 2402 of 2015*. The Review Petition as well as the Curative Petition filed against the said Judgment were dismissed. In view thereof, the private respondents have no subsisting right or claim over the premises. Consequently, the

Respondent Corporation ought to have corrected its municipal records by restoring the Petitioner's name as the sole owner of the property situated at Holding No. 195, Picnic Garden Road, Kolkata, pertaining to Assessee No. 210671801842, and by removing the prefix "T" from the property description so as to reinstate its status as a non-Thika property. In order to substantiate his argument, the learned Counsel for the Petitioner relies on ***Bimal Kumar Ghosh Vs KMC*** reported as ***2017 SCC Online Cal 15709***.

17. Learned Senior Counsel for the Petitioner, therefore, sums up his argument by contending that the Petitioner, having acquired ownership of the premises by virtue of a registered Deed of Conveyance dated 10.09.2007 and the subsequent Scheme of Amalgamation sanctioned by this Court on 19.09.2008, is the absolute and lawful owner of the property. It is contended that upon the expiry of the lease in favour of M/s Kumar Industries on 30.11.1993, neither the said lessees nor their successors-in-interest, i.e., the private respondents, retained any right, title, or interest in the said premises by virtue of the Judgment of the Hon'ble Supreme Court dated 27.07.2022 in *Civil Appeal No. 2402 of 2015*. In view thereof, the Respondent Corporation is duty-bound to rectify its records by reinstating the Petitioner's name as the sole owner of the premises situated at Holding No. 195, Picnic Garden Road, Kolkata, and by deleting the erroneous prefix "T" to restore its correct classification as a non-Thika property.

Submissions on behalf of the Respondent Corporation

18. Learned Counsel for the Respondent Corporation submits that in mutation proceedings, the Corporation does not adjudicate questions of title. Its role

is confined merely to recording the name of the person liable to pay property tax in respect of the premises concerned. It is further submitted that the Hon'ble Supreme Court, in paragraph 127 of its Judgment dated 27.07.2022, expressly left it open to the Petitioner to pursue appropriate remedies strictly in accordance with law in relation to any other claim or relief. Accordingly, it is contended that the relief sought by the Petitioner under prayer clause (a)(ii) cannot be granted in the present proceedings, as the Corporation is not a civil court and lacks jurisdiction to decide questions of ownership or title.

19. Learned Counsel further submits that, subsequent to the aforesaid Judgment of the Hon'ble Supreme Court dated 27.07.2022, both the Petitioner and the private respondents instituted independent civil proceedings. The Petitioner filed *Title Suit No. 04 of 2023* (now renumbered as *T.S. (Comm) 48 of 2023*) seeking recovery of *khas*, vacant, and peaceful possession of the premises in question, whereas the private respondents instituted *Title Suit No. 469 of 2023* (renumbered as *T.S. (Comm) 04 of 2025*) seeking a declaration of absolute ownership over the said property by virtue of alleged adverse possession. Both the said suits are presently pending adjudication before the Learned Commercial Court at Alipore.
20. Learned Counsel for the Respondent Corporation further submits that, although the claim of *Thika* tenancy rights by M/s Kumar Industries has already been negated by the Hon'ble Supreme Court, the private respondents have nevertheless filed an objection dated 07.05.2025, opposing any alteration in the assessment records in view of the pendency of the said civil disputes. It is, therefore, contended that the Corporation, being an implementing authority, has rightly refrained from effecting any

change in the municipal records until the civil court finally determines the rights of the parties. Learned Counsel also clarifies that the Respondent Corporation has no independent interest in the subject property and undertakes to act strictly in accordance with the orders that may be passed by this Court.

Submissions on behalf of the private respondents (Respondent Nos. 3-7)

21. Learned Counsel appearing for the private respondents, at the outset, raises a preliminary objection as to the maintainability of the present writ petition. It is submitted that the Calcutta Municipal Corporation Taxation Rules, 1987 provide a complete statutory mechanism for carrying out mutation in the municipal assessment records, under which an application for mutation is required to be filed in *Form A-42*. The application purportedly submitted by the Petitioner, however, does not conform to the prescribed statutory form and, therefore, cannot be treated as a valid or maintainable application. In effect, there is no proper application for mutation pending before the Respondent Corporation. Further, the private respondents have already filed objections to the Petitioner's representation, and the Corporation is yet to pass a final decision thereon. Under the statutory framework, the aggrieved party has the remedy of preferring an appeal against such decision once rendered. Learned Counsel further submits that the Petitioner has approached this Court without awaiting the conclusion of this statutory process and, in doing so, has failed to disclose material facts, in particular the pendency of civil suits before the Learned Commercial Court, Alipore, concerning ownership, possession, and title of the premises in question. Such non-disclosure of crucial facts renders the present writ petition premature,

misconceived, and not maintainable, and it is urged that the petition be dismissed accordingly.

22. Learned Counsel further submits that the Petitioner has neither actual possession nor any enforceable right over the premises in question, as its alleged ownership is seriously disputed and remains pending adjudication before the competent civil court. It is contended that upon the expiry of the lease in favour of M/s Kumar Industries on 30.11.1993, the private respondents, being the successors-in-interest of the said lessees, have continued in open, peaceful, and uninterrupted possession of the premises, asserting ownership in their own right, to the knowledge of the Petitioner and all others. Such long, continuous, and hostile possession, it is urged, has matured into ownership by way of adverse possession in accordance with settled principles of law.
23. Learned Counsel further contends that the Petitioner's claim of absolute ownership based on the Deed of Conveyance dated 10.09.2007 and the Scheme of Amalgamation sanctioned on 19.09.2008 is misconceived and unenforceable against persons who have been in settled and continuous possession of the property for several decades. It is argued that the said instruments, even if validly executed, cannot divest the private respondents of their possessory rights or entitle the Petitioner to alter the existing entries in the municipal records without recourse to due legal process. The private respondents further submit that the issue of whether the premises constitutes a *Thika* property is of limited relevance, as their possession and assertion of ownership are independent of any claim of *Thika* tenancy, being based solely on long-standing occupation and adverse possession.

24. Learned Counsel also submits that both the Petitioner and the private respondents have already approached the competent Civil Court for adjudication of their respective rights and claims, the Petitioner seeking recovery of *khas*, vacant, and peaceful possession, and the private respondents seeking a declaration of ownership by adverse possession. It is thus argued that the issues of title, possession, and ownership are *sub judice* before the Learned Commercial Court at Alipore. In such circumstances, any direction by this Court to mutate or rectify the municipal assessment records in favour of the Petitioner would amount to pre-empting and prejudging the very issues pending before the civil forum. Accordingly, it is urged that the present writ petition is misconceived, not maintainable, and liable to be dismissed in limine on the ground of availability of an efficacious alternative statutory remedy as well as the pendency of civil proceedings involving disputed questions of title and possession.
25. In order to substantiate their case, learned counsel for the private respondents relied on ***Municipal Corporation, Aurangabad Vs State of Maharashtra*** reported as **2015 (16) SCC 689**, ***Jitendra Singh Vs State of Madhya Pradesh*** reported as **2021 SCC Online SC 802**, ***Judgment dated 20.09.2013 titled as Ratnalal Nahata Vs KMC (W.PNo. 624 /2013)*** passed by this Court.

Legal analysis

26. This Court has carefully heard the arguments addressed by the learned Counsel for the parties and perused the materials on record, including the pleadings, documents, and the judgments relied upon.

27. The core controversy in this case is whether, in view of the Judgment of the Hon'ble Supreme Court dated 27.07.2022 in *Civil Appeal No. 2402 of 2015*, the Petitioner is entitled to have its name recorded in the municipal assessment records as the absolute owner of the premises in question, or whether such relief is precluded by the pendency of civil proceedings wherein questions of title and possession are sub judice before the competent civil forum.
28. The Hon'ble Supreme Court vide Judgment dated 27.07.2022 in *Civil Appeal No. 2402 of 2015* has unequivocally held that the premises in question is not a *Thika* property. This finding is final and binding on all parties. While the classification of the premises as non-*Thika* has been conclusively settled, the Supreme Court also observed in paragraph 127 that the Petitioner remains at liberty to pursue any other remedies available in law with respect to other claims or reliefs. It is further noted that the Supreme Court has, in effect, recognized the Petitioner as the owner of the property and directed the release of occupational charges deposited by the predecessors-in-interest of the private respondents to the Petitioner. The relevant portion of the said Judgment, reads, inter alia, as follows:

"127. Before closing, we may also take note of the fact that by way of interim orders dated 15.04.2014 and 22.07.2014, the appellants were directed to make payment towards occupancy charges. The appellants have made certain deposits and by the order dated 27.08.2021, we had directed the appellants to deposit further an amount of Rs. 20,00,000/- (Rupees twenty lakhs) in the Registry of this Court of which, the contesting respondents were held entitled to withdraw an amount of Rs. 16,50,000/- (Rupees sixteen lakhs fifty thousand) by way of the occupancy charges; and the remaining amount was ordered to be invested in a fixed deposit with periodical renewal, to be disbursed subject to the outcome of this appeal. The said deposited amount together with accrued interest is ordered to be disbursed to the respondent No. 1 while we otherwise leave it open for the said respondent in taking recourse to appropriate remedies, strictly in accordance with law, in relation to any other claim/relief."

29. It is undisputed that the Respondent Corporation, vide mutation certificate dated 04.10.2008, originally recorded the mutation of the property in favour of the Petitioner along with six other companies. Subsequently, relying on directions of the Thika Controller dated 27.01.2010, the Corporation altered the mutation in favour of the predecessors-in-interest of the private respondents and treated the premises as a *Thika* property by adding the prefix 'T'.
30. The alteration of the mutation in favour of the predecessors-in-interest of the private respondents was effected without compliance with the statutory procedure and in violation of the principles of natural justice. The underlying basis for such alteration, the alleged Thika tenancy, has now been conclusively negated by the Hon'ble Supreme Court. Accordingly, in light of the Supreme Court's Judgment, the premises must be treated as a non-*Thika* property.
31. Being a non-*Thika* property, the Petitioner, together with the six other companies, is the lawful owner of the premises by virtue of the registered Conveyance Deed dated 10.09.2007. Pursuant to the order of this Court dated 19.09.2008 sanctioning a Scheme of Amalgamation, all the other companies were amalgamated with the Petitioner, whereby ownership of all assets, including the premises in question, vested unequivocally in the Petitioner. In view of the Supreme Court's Judgment, the Petitioner is the absolute owner of the premises as on today. Consequent to this, the Petitioner initiated *Title Suit No. 04 of 2023* (now renumbered as *T.S. (Comm) 48 of 2023*) seeking recovery of *khas*, vacant, and peaceful possession of the premises in its capacity as the lawful owner.

32. Learned Counsel for the Respondent Corporation correctly submits that mutation proceedings do not adjudicate questions of title. However, in the present case, the Supreme Court has effectively recognized the Petitioner as the owner and directed the release of occupational charges to the Petitioner. Therefore, as the lawful owner, the Petitioner bears the primary liability for property tax, and the municipal records must accurately reflect this legal position.
33. The private respondents, however, have filed *Title Suit No. 469 of 2023* (renumbered as *T.S. (Comm) 04 of 2025*) claiming absolute ownership of the premises by virtue of adverse possession. Learned Counsel for the private respondents submits that their possession is open, continuous, and hostile, and has endured for several decades following the expiry of the lease in favour of M/s Kumar Industries on 30.11.1993. It is contended that their possession has matured into ownership in accordance with settled principles of law.
34. While the claims of the private respondents are pending adjudication before the competent civil court, it is appropriate to note that any rights or declarations granted in their favour can be given due effect in the municipal records by the Respondent Corporation strictly in accordance with law upon the passing of a final decree. Until such time, the mutation in favour of the Petitioner must remain operative, reflecting the ownership recognized by the Supreme Court.
35. While the Petitioner had earlier submitted a representation to the Respondent Corporation seeking correction of the municipal records, no final decision had been taken thereon. Although statutory remedies were available, given the Supreme Court's determination that the property is

non-*Thika* and that the Petitioner is the owner, it is appropriate for this Court to intervene and decide the matter to prevent further prejudice and ensure compliance with law.

36. In view of the foregoing, this Court concludes as follows:

1. The premises, being Holding No. 195, Picnic Garden Road, Kolkata shall be identified and recorded as a non-*Thika* property in the Municipal records maintained by the Respondent Corporation.
2. The Respondent Corporation is directed to restore and record the mutation in respect of the premises bearing Holding No. 195, Picnic Garden Road, Kolkata, in the name of the Petitioner as the lawful owner in the municipal records.
3. Any rights or claims of the private respondents arising from their pending civil suit (*Title Suit No. 469 of 2023*, renumbered as *T.S. (Comm) 04 of 2025*) shall be considered by the Respondent Corporation strictly in accordance with law, upon the final decree passed by the civil court.

37. Accordingly, the writ petition is allowed to the extent indicated above. The Respondent Corporation is directed to implement the mutation and correction of municipal records strictly in compliance with the Judgment of the Hon'ble Supreme Court and the statutory provisions governing municipal records.

(Gaurang Kanth, J.)