OD-5

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO 84 of 2025
APOT/186/2025
IN WPO/503/2024
IA NO:GA/1/2025
SHRI JAGAT SINGH MANOT
-VS-
THE MUNICIPAL COMMISSIONER KMC AND ORS

BEFORE:
The Hon'ble JUSTICE RAJASEKHAR MANTHA
And
The Hon'ble JUSTICE AJAY KUMAR GUPTA
Date: December 2, 2025.

Ms. M. Agarwal, Sr. Adv.; Ms. A. Manot, Adv.; Ms. R. Hallen, Adv., for appellant.
Mr. G. Mitra, Adv.; Ms. P. Sngupta, Adv., for KMC.
Mr. A. Ali, Adv.; Mr. S. Bhattacharjee, Adv., for R-6,7.

1. The Court: The facts of the case have already been set out in the Court's order dated August 4, 2025.
2. Once having agreed to amalgamation of the properties and having effected such amalgamation at the joint request of the appellant and the private respondent, the private parties fell out. The properties amalgamated could not be developed.
3. Pursuant thereto, the private parties entered into arbitration and in the award of the arbitrator, separation of the premises between the private parties has been allowed. The deed of exchange of the properties executed earlier was cancelled.

4. Learned counsel for the private respondent first objected to the prayer made by the appellant for cancellation of amalgamation made on the ground that payment of the apportioned property taxes would be difficult. This is a matter between the private respondent and the KMC. Every owner/occupier of property is liable for municipal taxes.
5. Learned counsel for the KMC submits that the deed of exchange originally executed was acceded to by the KMC since it was permissible under the rules. What is required to be done is an application for cancellation of the amalgamation hitherto permitted by the Corporation.
6. Article 300A of the Constitution of India guarantees a right to property. Since the properties of the appellant and the private respondent admittedly are distinct and separate, it would be an infringement of the right of the appellant to compel him to remain jointly with the private respondent. Both the appellant and the private respondent are entitled to exclusive user and possession and enjoyment of their properties to the exclusion of the other.
7. Having regard to the above, this Court is of the view that the Single Bench has committed error in rejecting the writ petition of the appellant.
8. It is indeed true that the KMC is not bound by any award passed amongst private parties. The KMC is not required to be bound by the same. What is being prayed for by the appellant before the KMC is for cancellation of the amalgamation hitherto done.
9. Let an application for cancellation of amalgamation be filed by the appellant within a period of seven days from date. Any arrears of property taxes shall be communicated to the appellant and the private respondent by the KMC. It is only

upon payment of such property taxes proportionately by the appellant and the private respondent that the KMC shall proceed to cancel the amalgamation already done and restore the original municipal number to the appellant's premises separate from that of the private respondent. All charges and processing fees of the KMC shall be borne by the aforesaid parties.

10. The appellant and the private respondent shall pay their respective property taxes and charges. In the event the private respondent does not come forth to pay the property taxes, the KMC shall be entitled to recover the same in terms of the procedure prescribed under the Act of 1980 and the rules thereunder.
11. Liberty is reserved to the private parties to take out any other proceeding with regard to any dues or liabilities against one another or even third parties.
12. With the aforesaid observations, the appeal is disposed of along with the connected application and the order impugned dated April 10, 2025 shall remain set aside.
13. There will be no order as to costs.

(RAJASEKHAR MANTHA, J.)

(AJAY KUMAR GUPTA, J.)

tk