

OD - 8

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction

ORIGINAL SIDE

APO/8/2025

IA NO: GA/2/2024

THE KOLKATA MUNICIPAL CORPORATION AND
ORS

VS

SRI BISWAJIT SANTRA AND ORS

BEFORE :

THE HON'BLE JUSTICE DEBANGSU BASAK

And

THE HON'BLE JUSTICE MD. SHABBAR RASHIDI

Date : 11th February, 2025

Appearance :

Mr. Alak Kumar Ghosh, Adv.

Mr. Arijit Dey, Adv.

Mr. Swapan Kumar Debnath, Adv.

...for the appellant.

Mr. Subhradip Roy, Adv.

Ms. Sananda Ganguli, Adv.

..for the Respondent.

Mr. Suhotro Pali, Adv.

...for respondent nos.3 & 4.

The Court : The appeal is directed against the judgment and order dated February 27, 2024 passed in WPO/165/2018.

The appeal is at the behest of the Kolkata Municipal Corporation.

Learned counsel appearing for the appellants submits that, there is a title dispute with regard to the premises no.38/A,

Jyotish Roy Road, Behala. He draws the attention of the Court to the prayers made in the writ petition and submits that, the writ petitioner is claiming title to such property. He also points out that, there is a title suit challenging the deed through which the writ petitioner is claiming title to the property.

Learned advocate appearing for the writ petitioner submits that, the writ petitioner is the owner of premises no.38/A, Jyotish Roy Road, which was subsequently renumbered as 38A/51, Jyotish Roy Road. He submits that, although the title suit is pending, no final decision was arrived at in such suit. He submits that, his client is the lawful owner by virtue of the registered deed of sale.

The respondent nos.3 and 4 are represented.

The writ petitioner claiming title in respect of a part of premise no. 38A/5, Jyotish Roy Road approached the writ court seeking direction upon the Kolkata Municipal Corporation to remove materials from such property and stop using it as a children park.

In response to the query of the Court, the learned counsel appearing for the appellants submits that, the appellants placed in certain materials into such property for the purpose of a children park.

The appellants before us are not claiming any right, title and interest in respect of the property in question. Nothing is placed before us to suggest, let alone establish that, the appellants were authorised validly and legally to treat such property as a children park.

In such conspectus, the learned Single Judge issued the following directions :

"21. Therefore on consideration as above this Court finds it proper to dispose of the writ petition with the following directions :

- (i) Writ petition No. W.P.O 165 of 2018 is allowed.*
- (ii) The respondent Kolkata Municipal Corporation is directed to immediately cause an inspection at both the premises nos.38A and 38A/51, Jyotish Roy Road, and ascertain installation of any material to construct an amusement park for the children along with placard, in presence of the writ petitioner/respondent nos.7 and 8 and/or their representative respectively.*
- (iii) Upon finding as above if any, the respondent Kolkata Municipal Corporation shall take immediate appropriate step/s for dislodging/dismantling any of such installation or placard from the said premises, in order to make the same free from all encumbrance as alleged.*
- (iv) The entire exercise as above shall be concluded by the Kolkata Municipal Corporation within the period of four weeks from the date of communication of this order to its office."*

We find no grounds to interfere with the impugned judgment and order of the learned Single Judge.

APO/8/2025 along with connected application are dismissed without any order as to costs.

(DEBANGSU BASAK, J.)

(MD. SHABBAR RASHIDI, J.)

sd/

