

OD-9

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/356/2024
IA NO: GA/1/2025
THE KOLKATA MUNICIPAL CORPORATION AND ORS.
VS.
VIVEK SINGH AND ORS.

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)
Dated : 4TH APRIL, 2025

Appearance:
Mr. Arijit Dey, Adv.
Mr. S. K. Debnath, Adv.
...for the Appellants
Mr. Roshan Pathak, Adv.
..for respondent No.1
Mr. Abhrajit Mitra, Sr. Adv.
Mr. Abhishek Banerjee, Adv.
Mr. Sitikantha Mitra, Adv.
...for respondent Nos. 16 and 17

THE COURT: This intra-court appeal filed by a third party, namely the Kolkata Municipal Corporation, is directed against the order dated 6th December, 2023 passed in WPO 1799 of 2023. The said writ petition was filed by the respondent/writ petitioner alleging that some miscreants are disturbing the writ petitioner and preventing him from collecting parking fees for which tender was awarded in their favour by the Port Trust. The dispute now raised in this appeal by the Kolkata Municipal Corporation is that it is the Kolkata Municipal Corporation who will be entitled to call for tender for nominating parking fee collecting attendants and it is not for the Port Trust to do so.

Learned senior Advocate appearing for the Port Trust submitted that this is a second round of litigation and the matter travelled upto the Hon'ble

Supreme Court and various other issues are there and the property in question is a property of the Port Trust which was given to them by way of a Green Grant.

This being a third party appeal, we cannot test the correctness of the impugned order on facts which were never placed before the learned Single Bench. Therefore, the proper procedure to be adopted by the appellants is to file a review before the learned Single Bench and place all materials before the learned Single Bench so that the same can be considered and appropriate orders be passed.

Accordingly, we dispose of this appeal granting liberty to the appellants to file third party review before the learned Single Bench and if such review is filed, the learned Single Bench may consider the same without rejecting the same on the ground of limitation since KMC was not impleaded as a respondent to the writ petition.

The writ petitioner is directed to hand over a copy of the writ petition along with the enclosures in the stay petition to the learned Advocate for the appellant herein within two days.

The application IA No: GA/1/2025 also stands disposed of.

(T.S. SIVAGNANAM, CJ.)

(CHAITALI CHATTERJEE (DAS), J.)