

OD-8

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/1168/2024

SK. SYEED AHMED
-VS-
THE STATE OF WEST BENGAL AND ORS

BEFORE:

The Hon'ble JUSTICE GAURANG KANTH

Date: July 3, 2025.

Appearance:

Mr. S. T. Mika, Adv.
Mr. Pratick Sardar, Adv.
Miss Priyanka Das, Adv.
...for the petitioner

Mr. Debjit Mukherjee, Adv.
Ms. Susmita Chatterjee, Adv.
Ms. Priyavada Singh, Adv.
...for the State

Mr. Alak Kr. Ghosh, Adv.
Ms. Sima Chakraborty, Adv.
...for KMC

The Court: The petitioner has filed the present writ petition seeking a direction upon the respondent/Corporation to permit the construction of a separate underground water reservoir and to grant an independent water supply connection through a separate ferrule, subject to compliance with all requisite formalities.

Learned counsel for the petitioner submits that he is the absolute owner of the southern portion of premises bearing No. 25A, Samsul Huda Road, P.O. Circus Avenue, P.S. Karya, Kolkata – 700017. The respondent no.10, on the other hand, is the absolute owner of the northern portion of the said four-storeyed building. Both parties have acquired their respective

titles by virtue of registered sale deeds dated 14.03.1988 and 17.01.2007, respectively.

It is further submitted that both the petitioner and respondent no.10 jointly hold easementary and user rights over the eastern common passage, staircase (extending from the ground floor to the rooftop), septic tank, and underground water reservoir. The respective portions of the premises have been duly mutated in their respective names, and separate assessee numbers have been assigned to each of them.

Disputes arose between the petitioner and respondent no.10 regarding the use and access of common areas, particularly the underground reservoir. As a result, civil suits are currently pending before the competent Civil Court. It is alleged that respondent no.10 has been obstructing the petitioner's access to water from the common underground reservoir. Consequently, the petitioner approached the respondent Corporation seeking permission to construct a separate underground reservoir and to obtain an independent water connection. However, no response was forthcoming, prompting the petitioner to file the present writ petition.

Mr. Alak Kumar Ghosh, learned counsel for the respondent Corporation, has filed a report asserting that the entire premises at 25A, Samsul Huda Road is considered a single unit by the Corporation. According to the Corporation, both the petitioner and respondent no.10 are co-owners of an indivisible property, with shared access to common facilities. The Corporation contends that the premises is not capable of vertical division.

It is further submitted that the premises is already equipped with a water supply connection through a ferrule of the maximum permissible size, determined in accordance with the annual valuation of the land and building under the provisions of the Kolkata Municipal Corporation Act. It is argued that, as per the applicable provisions and prevailing municipal policy, only one domestic water connection is permissible per premises, irrespective of the number of owners. Hence, no separate connection can be granted to the petitioner.

Learned counsel for the petitioner disputes the Corporation's position, arguing that the existence of two separate assessee numbers entitles the petitioner to a separate water connection. He relies upon Section 267 of the Kolkata Municipal Corporation Act to support his claim, contending that the Corporation has the discretion to permit separate connections based on annual valuation and the petitioner's compliance with tax obligations.

Conversely, learned counsel for the respondent Corporation places reliance on Sections 254, 265(b), and 266 of the Act. He submits that Section 254 contemplates a single water supply per premises, Section 265(b) confirms that the property has already been duly assessed for water supply and is currently receiving water through the maximum-sized ferrule, and Section 266 prohibits occupation of any premises without a certified water connection, which, in this case, already exists.

This Court has heard learned counsel for the parties and carefully considered the materials placed on record.

It is not in dispute that the petitioner purchased his portion of the premises in 1988 and has been receiving water supply since then. Upon subsequent subdivision of ownership in 2007, respondent no.10 acquired

the northern portion. Both parties have enjoyed access to the shared water supply over the years. The present dispute, it appears, stems from a breakdown in relations between the parties, leading to the institution of civil suits namely, Title Suit No. 1448 of 2010 filed by the petitioner seeking permanent injunction against respondent no.10 from interfering with his access to the pump and underground reservoir, and Title Suit No. 93 of 2015 filed by respondent no.10 seeking removal of the petitioner's water pump.

The petitioner's present writ petition is essentially an alternate plea to secure an independent water connection, which is already the subject matter of dispute in the pending civil suits.

It is a well-established principle that matters relating to the grant, feasibility, and technical assessment of water supply fall within the exclusive domain of the municipal authority. The Corporation, being the expert body, is entitled to formulate and implement policies governing water supply based on objective considerations such as infrastructure capacity, legal mandates, and water availability.

The Corporation has, in the exercise of its discretion and in adherence to its uniform policy, taken a considered position not to grant more than one water connection per premises. No mala fide or arbitrariness in the said decision has been demonstrated by the petitioner. There is no allegation that similarly situated persons have been accorded more favourable treatment. On the contrary, it is evident that the petitioner has been availing of the water supply for decades and that the present dispute arose only after personal differences with respondent no.10 escalated.

This Court is, therefore, unable to accept the petitioner's contention that his fundamental right to water connection has been violated. The petitioner continues to enjoy access to the existing water supply; his grievance arises out of a private dispute with a co-owner, which is already pending adjudication before the competent Civil Court.

In the absence of any illegality, procedural impropriety, or violation of fundamental rights, this Court finds no justification to interfere with the Corporation's decision.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

(GAURANG KANTH, J.)