

07.05.2026
SL- 6
AMR
Ct.No. 03

WPA 9015 of 2026

M/s. Lisa & Co. & Ors.

-vs.-

The Kolkata Municipal Corporation & Ors.

Mr. Tanmoy Mukherjee
Mr. Sakabda Roy

...for the Petitioners

Ms. Piyali Sengupta
Mr. Debanjan Mukherjee

...for the KMC

1. Affidavit of service filed in Court is taken on record.
2. Under very peculiar set of facts, the instant writ petition has been filed challenging the recording of the names of respondent nos. 9 and 10 in respect of premises no. 139G, Ananda Palit Road, P.S.- Entally, Kolkata- 700 014 (in short, the said property), without service of any notice on the petitioner no.1, notwithstanding the petitioner no. 1's name being recorded in the record of the Kolkata Municipal Corporation.
3. The petitioners claim to have acquired interest in the said property, on the strength of a registered Deed of Sale dated 26th October, 1994 executed by one

Kalicharan Ojha, as vendor. The petitioners claim that Kalicharan Ojha during his lifetime had inducted Tulsibala Dasi as a tikha tenant in respect of the above premises. Subsequently in connection with a miscellaneous case filed under Section 5 of the Calcutta Tikha Tenancy Act, 1949 for eviction of the thika tenant, the Court of the learned 2nd Munsif (Controller) at Sealdah in Miscellaneous Judicial Case Nos. 179 and 180 of 1962 was, inter alia, pleased to allow the application and direct eviction on the ground of development of the suit land with a further direction that the final order of eviction shall be passed on payment of compensation for the opposite party's structures of the disputed tikha tenancies as may be amicably agreed up within two months.

4. Records would reveal that the thika tenant had preferred miscellaneous appeals, which were registered as Misc. Appeal Nos. 912 & 913 of 1964.

5. By a judgment and order dated 29th April, 1965, learned Additional District Judge, 4th Court at Alipore was pleased to dismiss the said appeals and affirmed the order passed by the Controller.

6. The thika tenant did not stop there. The thika tenant, challenging the said order in civil revisional jurisdiction, approached this Court.

7. By an order dated 1st August, 1966, a Coordinate Bench of this Court in Civil Rule Nos. 2312 and 2313 of 1965 held that the cases under Section 5 of the Calcutta Thika Tenancy Act, 1949 which were filed before the learned 2nd Court between the period of 30th May, 1950 and 5th of June, 1962 and as such, learned 2nd Court, at the relevant point of time, had complete jurisdiction and that the jurisdiction was never taken away and accordingly, discharged the rules and dismissed the civil revisional applications.

8. It is the petitioners' case that following the above, the petitioners' predecessor in title deposited the compensation amount whereupon the preliminary order of eviction dated 26th September, 1964 for eviction of the thika tenant was made final in terms of the Commissioner's report. The challan showing the deposit has also been disclosed.

9. According to the petitioners, the petitioners before purchasing the aforesaid property had made an enquiry from the office of the Thika Controller whereupon the office of the Thika Controller, by notice in writing dated 17th September, 1993, had observed that the said property was not hit by the provisions of the Calcutta Thika Tenancy (Acquisition & Regulation) Act, 1981.

10. The petitioners would further submit that one Renuka Bala Ghosh claiming to be the legal heir of the original thika tenant had since applied before the Thika Controller in Misc. Case No. 43 of 2008. Such petition came to be rejected and by an order dated 19th July, 2012 passed in Misc. Case No. 43 of 2008 by the Thika Controller on the ground that the said legal heir had not established that she is the legal heir before any court of law, as there was an anomaly as regards her right, to be regarded as legal heir of the thika tenant.

11. The petitioners would contend that challenging the above order, the petitioners had moved an application before the West Bengal Land Reforms & Tenancy Tribunal in O.A. No. 3019 of 2012. The said proceeding is pending.

12. In the interregnum during the pendency of the above proceedings behind the back of the petitioners, the respondent nos.9 to 12 as legal heirs of the thika tenant had moved the Officer-in-Charge, Tangra Thika Office whereupon the Officer-in-Charge, Tangra Thika Office by an order dated 25th April, 2025 had directed the applicants to be recorded as joint thika tenants in respect of the land in premises no. 139G, Ananda Palit Road, Kolkata-700 014.

13. Mr. Mukherjee, learned advocate appearing for the petitioners, would submit that the above order is without jurisdiction, since the thika tenancy had for long ceased to exist. Notwithstanding the aforesaid, the municipality has acted on the basis of the said order and behind the back of the petitioners and without service of notice on the petitioners has altered the municipal records and removed the petitioner no.1's name therefrom and incorporated the names of the respondent nos. 9 and 10.

14. According to Mr. Mukherjee, prima facie, the aforesaid removal of the name of the petitioner no.1 from the records is an act done in colourable exercise of power. Such alteration ought not to have been made especially when a challenge to the above proceedings was pending. In support of his contention, he has placed reliance on an unreported judgment delivered by a Division Bench of this Court in WPLRT No. 300 of 2014 (**Rafiq Mallick & Anr. -vs.- State of West Bengal**) on 11th November, 2014 as also the judgment delivered by another Division Bench of this Court in WPLRT No. 356 of 2014 (**Sri Chandranath Khan -vs.- The State of West Bengal & Ors.**) on 19th January, 2015.

15. Ms. Sengupta, learned advocate, appears for the municipality. She would submit that from the disclosure

made by the petitioners, it is not apparent that the petitioner no. 1's name was recorded in the record of municipality. The petitioners have only disclosed an E-demand notice issued in relation to a certificate of enlistment in the year 2021-2022, and the payment receipt issued in connection therewith. No case for interference is made out.

16. Having heard the learned advocates appearing for the respective parties, I may note that though a lot of argument has been made by the petitioners that a thika tenanted property, which has lost its character by a decree passed by a competent court, cannot regain its character as a thika tenanted property under the West Bengal Thika Tenancy (Acquisition and Regulation) Act, 2001 and at the first blush such a contention appears to be plausible, however, having regard to the fact that the petitioners have already approached the West Bengal Land Reforms and Tenancy Tribunal and the provision of statutory appeal before the West Bengal Land Reforms and Tenancy Tribunal and the judgment delivered by the Hon'ble Supreme Court in the case of ***L. Chandra Kumar -vs.- Union of India & Ors.***, reported in **(1997) 3 SCC 261**, in my view, it shall not be appropriate for this Court to embark upon such an enquiry especially when an appellate remedy is

provided for and a challenge would only lie before the Hon'ble Division Bench.

17. This apart, though a lot of stress has been laid by Mr. Mukherjee, to inter alia, contend that the municipality ought not to have altered the recording made in the name of the writ petitioner no.1 in the municipality records, the document on record disclosed by the petitioners does not establish the same. Accordingly, there is no scope for this Court to entertain the writ petition.

18. The present writ petition is thus, dismissed.

19. Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)