

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 23881 of 2025

**Sugata Shankar Roy
versus
The KMC & ors.**

For the petitioner-in-person	:	Mr. Sugata Shankar Roy
For the KMC	:	Mr. Biswajit Mukherjee Ms. Debjani Mukherjee
For the respondent nos. 8 and 9.	:	Mr. Suman Kumar Dutt, Sr. Adv. Ms. Debjani Ghosh Mr. Bhaskar Mukherjee
Heard on	:	01.04.2026.
Judgment on	:	01.04.2026

Raja Basu Chowdhury, J (Oral):

1. The present writ petition has been filed, inter alia, calling upon the municipal authorities to revise the mutation concerning premises No. 3/2 A Gorchha First Lane, P.O.-Dover, P.S. Gariahat Kolkata 700019. The petitioner appearing in person claims to be an executor of the last Will published by Barsha Ganguli since deceased (hereinafter referred to as the deceased) on 16th April, 2022. The petitioner has since applied for grant of probate of the last Will and testament of the deceased dated 16th April, 2022 in

P.L.A. 355 of 2025. According to the petitioner, the deceased had dealt with the immovable property being flat at premises No. 3/2A Gorcha First Lane, P.O.-Dover, P.S. Gariahat Kolkata 700019, (hereinafter referred to the said flat) by her last Will by cancelling all other previous testamentary documents.

2. It is also the petitioner's case that the petitioner had come to learn that the respondent No. 8 had since obtained a grant in respect of a Will allegedly made and published by the deceased on 5th February, 2020. Following the death of the deceased on 30th October, 2022, the respondent No. 8 as propounder had obtained probate of the said Will allegedly made and published by the deceased on 5th February, 2020, from this Hon'ble Court in P.L.A. No. 173 of 2023. It is also the petitioner's case that the petitioner has since not only applied for revocation of the grant being I.A. 4 of 2025 filed in connection with P.L.A. 173 of 2023, but also having made a prayer for an order to injunct the propounder from granting the assent to the beneficiaries, the Coordinate Bench of this Court exercising its jurisdiction in I.A. 4 of 2025 in P.L.A. 173 of 2023 by an order dated 5th May, 2025 upon considering the submissions of the parties and upon going through the nature of the dispute, had directed that the assent, if not already made should remain stayed until further orders. The Court has also by the aforesaid order, inter alia, pleased to restrain the propounder, as also the petitioner as applicant from dealing with, disposing of, alienating, encumbering

or creating any third party interest or changing the nature and character of the assets and properties which have been bequeathed under the Will and Testament of the deceased dated 5th February, 2020.

3. The petitioner has by drawing attention of this Court to the application for mutation filed by the respondent No. 8 in form A-42 with the municipal authorities, concerning the said flat, would submit that the mutation was sought for on the ground of intestate succession and not on any other ground. This apart, according to the petitioner, the bequest under the grant does not touch the said flat as the Will which has been probated does not provide for bequest of the said flat.
4. In the facts noted hereinabove, he insists that the municipal authority should be directed to revisit the mutation granted in favour of the respondent Nos. 8 and 9.
5. The municipality is represented by Mr. Mukherjee in Court today.
6. Mr. Dutt, learned senior advocate representing the respondent Nos. 8 and 9 would submit that admittedly, in this case a probate has already been granted in favour of the executor/propounder namely the respondent No. 8, in PLA No. 173 of 2023. He has also drawn attention of this Court to the deed of gift dated 28th November, 2024 executed by respondent No. 10 in favour of respondent Nos. 8 and 9 and the provisions of Section 332 of the Indian Succession Act, 1925 to inter alia, hold out that the assent is already complete and

as such the order of injunction passed by the Co-ordinate Bench on 5th May, 2025 does not interfere with the rights of the respondent Nos. 8 and 9 qua the aforesaid property. As such, according to him, at this stage no interference is called for.

7. Having heard the learned advocates appearing for the respective parties, I find that in the instant case though the petitioner would claim that the mutation was obtained on the basis of intestate succession, however, on the basis of the disclosure made by the municipal authorities in Court today in the form of statement of facts it is apparent that the factum of grant of probate was duly disclosed to the municipal authorities. Admittedly, in this case, I find that a probate has been granted by Court of competent jurisdiction in PLA No. 173 of 2023. The said grant though is under attack, is yet to be revoked. This apart although the petitioner would in addition to the above, try to contend that since the Will made and published by the deceased on 5th February, 2020 only dealt with the bequest of the property at 39 Gorcha First Lane, and the municipality ought not to have granted mutation in respect of 3/2A Gorcha First Lane, however, considering the fact that a revocation application is pending, I am not inclined to enter into such disputed issues.
8. Having regard thereto, at this stage, I am of the view there is no scope to interfere with the steps taken by the municipal authorities

in mutating the flat in question in favour of the respondent Nos. 8 and 9. Accordingly, the writ petition is dismissed.

9. 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.)

**Sayandeep
A.R. (Court)**