

Form No.J(2)

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

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 31038 of 2024

**Nilima Kar & anr.
versus
The KMC & ors.**

For the petitioner	:	Mr. Souradipta Banerjee Ms. Fatima Hassan
For the KMC	:	Mr. Biswajit Mukherjee Ms. Piyali Sengupta
For the respondent nos. 6 and 7.	:	Mr. Kamalesh Jha Ms. Jonaki Saha Md. Raihan Islam
For the respondent No. 10-11 :	:	Mr. Samya Ray
Heard on	:	16.06.2026.
Judgment on	:	16.06.2026

Raja Basu Chowdhury, J (Oral):

1. The petitioners by this writ petition, seek to call upon the municipal authority to revoke the bifurcation of premises No. 6/Y Uma Kanta Sen Lane, Kolkata 700030 which has been sub-divided into two premises namely, 6Y/1A, Uma Kanta Sen Lane, Kolkata 700030 and 6Y/1B Uma Kanta Sen Lane, Kolkata 700030.

2. The petitioners claim to be tenants in respect of one roof, one kitchen and common bath room and verandah in first floor of the building standing on the premises No. 6/Y Uma Kanta Sen Lane, Kolkata 700030. According to the petitioners, the said tenancy commenced on and from 1st August, 1985 vide agreement dated 1st August, 1985 entered into between one Sambhu Nath Dutta and Sushil Kr. Kar. It is also the petitioners' case that though agreement dated 1st August, 1985 was valid for a period of two years from the date of commencement of the agreement, after expiry of the aforesaid period, the owners of the said premises permitted Sushil kr. Kar and the predeccssor of petitioners herein to reside in the said premises and consequentially the tenure of the said agreement stood renewed. The petitioners do not claim any interest in the said property apart from a right to enjoy the said property as tenants.
3. It is also the petitioners' case that though an eviction suit being number 212 of 2007 was filed seeking for eviction of the petitioners, such suit was dismissed on contest by a judgment and order dated 29th November, 2022 by the Court of the learned Civil Judge(Junior Division), 1st Court at Sealdah. An appeal preferred therefrom before the Court of the learned Additional District Judge Fast Track Court, 2nd Court at Sealdah which was registered as ejectement appeal No. 1 of 2023 was also dismissed. The second appeal at present, is pending consideration before this Court. In the factual backdrop as aforesaid, Mr. Banerjee, learned advocate representing

the petitioners would submit that in the peculiar facts noted hereinabove, the municipal authorities should not have altered the municipal records and the alternation in form of bifurcation already effected should be cancelled.

4. Mr. Jha, learned advocate appears for the respondent Nos. 6 and 7. He submits that the respondent Nos. 6 and 7 are the owners in respect of premises No. 6Y/1A, Uma Kanta Sen Lane, Kolkata 700030 while Mr. Roy learned advocate representing the respondent Nos. 10 and 11 would submit that they are the owners in respect of premises No. 6Y/1B Uma Kanta Sen Lane, Kolkata 700030.
5. The municipality has filed a report duly countered signed by the Deputy Assessor Collector (N) Division, KMC dated 15th June, 2026. From the aforesaid report, it would transpire that up to 4/1989-90, the premises number being 6/Y Uma Kanta Sen Lane, Kolkata 700030 under ward No. 4 was recorded in the name of Padmabati Dutta as a IV storey dwelling House. Later from the 1/1990-91, a portion thereof was separated and renumbered as premises No. 6Y/1B Uma Kanta Sen Lane, Kolkata 700030 and recorded in the name of Nirmal Kumar Dutta and the rest of the portion was renumbered as 6Y/1A, Uma Kanta Sen Lane, Kolkata 700030 and remains recorded in the name of Padmabati Dutta.
6. I find from the disclosure made by Mr. Jha in the form of a grant of probate by the Court of District delegate Alipore in Act 39 Case of 260 of 1996 (P) that the will executed by Padmabati Dutta in

respect of premises No. 6Y/1A, Uma Kanta Sen Lane, Kolkata 700030 had duly been probated on 19th November, 1997. A copy whereof as placed before this Court is taken on record. As per the aforesaid will she has bequeathed her property in favour of her youngest son Amal Dutta who happens to be the husband of the respondent No. 6.

7. Mr. Ray, learned advocate representing the respondent Nos. 10 and 11 would submit that the respondent Nos. 10 and 11 have purchased a part of the interest of Nirmal Kr. Dutta in premises No. 6Y/1B Uma Kanta Sen Lane, Kolkata 700030. Accordingly, his name has since been mutated in the record of the municipal corporation, though, nothing has been placed to substantiate the same.
8. Having regard to the above, and noting that the petitioners do not have any ownership rights in either of the above premises, in my view, the petitioners cannot under any circumstances resist the bifurcation of the aforesaid premises by reasons of change in ownership. The right of the petitioners, if any, is in relation to their tenancy rights. Such rights, however, cannot be conveniently adjudicated in exercise of jurisdiction under Article 226 of the Constitution of India.
9. After the order is passed, Mr. Banerjee would submit that atleast at this stage, the municipal authorities can consider the petitioners' case for recording them as occupiers in respect of the premises in

question. On the above issue, I find when a suit for eviction is pending against the petitioners, at this stage, it shall not be prudent for this Court to direct the municipal authorities to consider the petitioners' prayer. If the petitioners are in a position to ultimately succeed and demonstrate that they have any right in the property, including occupancy right, and any competent Civil Court having jurisdiction passes any declaration in their favour, the municipal authorities in such circumstances, would be obliged to act on the basis of such declaration.

10. With the above observations and directions, the writ petition is disposed of.
11. 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)**