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ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO/50/2026
IA NO: GA/1/2026
C AND J PROPERTIES PVT. LTD. AND ORS.
VS
THE KOLKATA MUNICIPAL CORPORATION AND ORS.
……..

BEFORE:
The HON'BLE JUSTICE SHAMPA SARKAR
The HON'BLE JUSTICE PARTHA SARATHI CHATTERJEE
Date: 12th November, 2026.

Appearance:
Mr. Jayanta Kumar Mitra, Sr. Adv.
Mr. Arindam Banerjee, Sr. Adv.
Ms. Mahashree Ghosh, Adv. …for appellants.

Mr.Debnath Ghosh, Sr. Adv.
Mr. Sarosij Dasgupta, Adv.
Mr. Keshav Daruka, Adv.
Mr. Sitikantha Mitra, Adv.…for respondent nos.8 to 10.

Mr. Biswajit Mukherjee, Adv.
Ms. Piyali Sengupta, Adv. …for KMC.

The Court: We are faced with a peculiar situation in the present intra-court appeal. The dispute relating to the present appeal has its origin in the rival claim of the appellants and the respondent Nos. 8, 9 and 10 over a string of land. The land is situated adjacent to the respective plots of land purchased by the appellants and the said respondents.

The appellants' case in a nutshell is that they acquired ownership of a parcel of land together with a building standing thereon being premises no.18/1A, Dr. U. N. Brahmachari Sarani, Kolkata 700 017 measuring about 10 cottahs 15 chittaks 24 sq. ft. by dint of several deeds of conveyance. They

also purchased 50% of the strip of land measuring 1 cottah 3 chittak 36 sq. ft.

The respondent nos.8 to 10 are the owner of the adjacent premises bearing No. 18/1B, Dr. U. N. Brahmachari Sarani, Kolkata 700 017. They also claim to be the owner of the other 50% of the strip of land measuring about 1 cottah 3 chittak 36 sq. ft. Subsequently, disputes arose when the Kolkata Municipal Corporation (in short KMC), by an order dated 10th March, 2025 directed that the names of respondent nos.8 to 10 be amended in the municipal assessment register in respect of premises no.18/1B, Dr. U. N. Brahmachari Sarani, Kolkata 700 017 on the basis of their registered Deed of Conveyance, subject to the result of the pending civil suit and also subject to submission of all necessary documents as per Citizen's Charter, 2021 and completion of all the proceedings as per the norms of the department.

Aggrieved by the order of the Corporation, the appellants/owners of premises no.18/1A, Dr. U. N. Brahmachari Sarani, Kolkata 700 017 have filed the writ petition, which was disposed of by the order impugned in the present appeal. The learned Single Judge held as follows:-

> "4. Since, on the submission made by the respondent nos. 8 to 10, it is apparent and clear that the passage is a common passage meant for the common and exclusive user of both the aforesaid premises only, the term 'exclusive' appears to have been used to mean and include owners of both the premises. As such, in my view nothing survives in the writ petition for adjudication.
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> 5. The municipality is, accordingly, on the basis of the aforesaid observations made hereinabove, is directed to treat the passage in between the two premises as a common passage exclusively meant for the concern user of both the premises and accordingly, amend the municipal records."

Mr. Mitra, learned senior Advocate representing the writ petitioners/appellants submits that the learned single Judge erroneously directed the Corporation to treat the passage (adjacent strip of land) as a

common passage exclusively meant for the common user of both the parties. The Corporation was directed to amend the municipal records, by treating the strip of land as a common passage. Learned Advocate submits that the KMC was under an obligation to record the name of the petitioners as 50% owner of the strip of land with the right to use the remaining 50% owned by respondent nos. 8 to 10. Therefore, by the order impugned the ownership of the appellants over that strip of land has been denied. He further submits that a suit for declaration of ownership over the strip of land is pending. The appellants instituted the civil suit being CS/127/2025 before the High Court. He submits that if the order impugned in the appeal was allowed to stand, it would influence the suit.

Learned senior advocate for the respondent nos.8 to 10 submits that the order was passed on the basis of the consent given by the parties. He refers to an order dated 21st July, 2026 passed in CS/127/2025 and submits that the parties to the suit submitted before the court that the suit may be disposed of on the basis of the terms of settlement to be filed by the parties, incorporating the arrangement recorded in the order impugned in the appeal. He submits therefore that, the appellants cannot go back on the consent. Accordingly, the appeal is not maintainable at the instance of the appellants.

Heard learned Advocates appearing for the respective parties and perused the materials on record placed before us.

The respondent nos.8 to 10 claim ownership over 50% of the strip of land and user of the other 50%. The appellants also have a similar claim. The issue is to be finally decided by the learned civil court. Under such circumstances, any expression of opinion by the Single Judge with regard to

the nature of the passage, that is, whether it is a common passage or not, is likely to affect the merits of the suit. However, with regard to the mode of user, we agree with the learned single Judge that the strip of land shall be used by both the parties till the title and nature of user are finally decided by the civil court in the pending suit. We are only setting aside the direction of the learned single Judge upon the Corporation to treat the strip of land as a 'common' passage, and to amend the records. The KMC had granted mutation in respect of the land owned by the respondent Nos. 8, 9 and 10, on the basis of the Deed of Conveyance and to the extent of land mentioned therein, subject to the outcome of the civil suit. Thus, KMC is not required to pass any other or further order on the basis of the direction of the learned Single Judge.

The order impugned is modified to the above extent.

The appeal and the application are, accordingly, disposed of.

(SHAMPA SARKAR, J.)

(PARTHA SARATHI CHATTERJEE, J.)

Pkd/TR