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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/588/2025

KAMALES MALLIK
VERSUS
WEST BENGAL INFORMATION COMMISSION AND ORS.

BEFORE:
THE HON'BLE JUSTICE RAJA BASU CHOWDHURY
Date: 24th June, 2026.

Appearance:

Mr. Arindam Paul, Adv.
Ms. Debarati Das, Adv.
...for Petitioner

Mr. Raja Saha, Adv.
...for Respondent No.1

Mr. Alak Kr. Ghosh, Adv.
Mr. Gopal Chandra Das, Adv.
...for KMC

1. The present writ petition has been filed, inter alia, challenging the recording of bustee in respect of premises No.19A, Goabagan Street, Kolkata-700 006, Ward No.16. The petitioner seeks for a direction on the municipal authorities to delete the recording of the term "bustee".
2. This matter came up for consideration on 12th May 2026.
3. Mr. Ghosh, learned advocate representing the municipality has submitted that the premises is recorded as bustee since the year 1981-82.

4. Having regard to such submission made in Court, this Court directed the municipality to file a report along with supporting documents when the matter is taken up next.
5. Pursuant to the aforesaid direction, the municipality has since filed a report. The same is taken on record.
6. According to such report, the petitioner had previously filed a writ petition being WPO/938/2024, in connection with certain information as supplied to him under the Right to Information Act. Such writ petition was disposed of by an order dated 19th December, 2024 directing the Kolkata Municipal Corporation to file an affidavit explaining its stand in respect of the issue in question. During pendency of the writ petition and prior to passing of the said order, the petitioner was informed by a letter dated 22nd February, 2023 that there were 25 numbers of assessees within the said premises. Such 25 assessees were actually the bustee and hut premises created and recorded in respect of the original mother premises No.19A, Goabagan Street, Kolkata-700006. In support of such contentions, reliance has also been placed on the copies of the Inspection Book.
7. The report further records that at all material times, Thika Tenancy Act, 1949 was in force. Subsequently, the West Bengal Thika Tenancy (Acquisition and Regulation) Act, 2001 had come into force and that some persons, occupying the huts in the said

premises, had approached the Thika Controller for determination of interest under the existing law. The proceeding for such determination is reportedly pending before the concerned Thika Controller. The report, however, does not disclose particulars of the proceedings.

8. In response to the query from the Court, the learned advocate appearing for the petitioner would submit that no proceedings are pending before the Thika Controller.
9. Having regard to the aforesaid, I am of the view that the municipal authorities on their own cannot declare a property to be thika-tenanted property. In absence of any determination under Section 5(3) of the West Bengal Thika Tenancy (Acquisition and Regulation) Act, 2001, no property can be declared to be a thika-tenanted property. Ordinarily, therefore, a premises does not lose its character and become a bustee simply because the same is tenanted and especially, when in the State of West Bengal Tenancy Laws are generally governed either by the West Bengal Premises Tenancy Act, 1997 or by the Transfer of Property Act, 1882.
10. At this stage, however, Mr. Ghosh, by drawing attention of this Court to the definition of the term “Bustee” as appearing in Section 2(8) of Kolkata Municipal Corporation Act, 1980 (*hereinafter referred to as the “said Act”*) and the *Explanation* thereto, would submit that if any question arises as to whether a particular area

is 'bustee' or not, Corporation is competent to decide the same and the decision in this regard shall be final.

11. On the extent of power of the Corporation to define and to alter the limit of a bustee from time to time, he has also drawn attention of this Court to Section 444 of the said Act.
12. Having heard the learned advocates appearing for the respective parties and having regard to the submissions made by Mr. Ghosh, I am of the view that at this stage, it shall be prudent to direct the municipal authorities to take a decision whether the premises No.19A, Goabagan Street, Kolkata-700006, comes within the area which has been defined to be a "bustee" by the municipal authorities.
13. It is, however, made clear that the aforesaid direction should not be construed to be authorizing the municipal authorities to decide on the question as to whether the property in question is a thika-tenanted property as the municipal corporation has no such jurisdiction to make such determination.
14. It is expected that the decision in this regard shall be taken by the municipal authorities on expeditious basis, preferably within eight weeks from the date of communication of this order.
15. Accordingly, the petitioner shall be at liberty to file an appropriate representation before the municipal authorities within a period of two weeks from date. If such representation is filed, the municipal

authorities shall decide the same in terms of the directions given above and in accordance with law.

16. The instant writ petition is, accordingly, disposed of.

(RAJA BASU CHOWDHURY, J.)

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