IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

BEFORE:
HON'BLE JUSTICE RAJA BASU CHOWDHURY

WPO/727/2025
IA No.GA/1/2026

MUKTA LALL SHAW AND ORS.
VS
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

For the petitioner	:	Mr. Biswaraup Bhattacharya, Adv. Mr. Pratik Majumder, Adv. Mr. Snehasish Dey, Adv. Mr. Subhradip Roy, Adv.
For the KMC	:	Mr. Biswajit Mukherjee, Adv. Ms. Piyali Sengupta, Adv. Mr. Anupam Dasadhikari, Adv.
Heard on	:	13.05.2026 & 14.05.2026
Judgment on	**:**	**14th May, 2026**

<u>RAJA BASU CHOWDHURY, J:</u>

1. Challenging the order passed by the Municipal Commissioner dated 4th August, 2025 in terms of Section 192 of the Kolkata Municipal Corporation Act 1980 (hereinafter referred to as 'the said Act'), the instant writ petition has been filed. The petitioners have also sought for consequential reliefs.
2. The petitioners' case proceeds on the premise that by a registered indenture dated 17th January, 1942, one Birendra Kumar Shaw, since deceased, had purchased from the National Life Insurance Company Limited, all that land admeasuring 1 Bigha, 11 Cottah 8 Chittaks and 41 Sq. Ft. being premises no.20 Park Street, formerly known as premises no.4 Park Street, Kolkata. Later, the aforesaid premises was subdivided into 10 premises, which were

renumbered as 20A, 20B, 20C, 20D, 20E, 20F, 20G, 20H, 20J and 20K, Park Street, Kolkata together with partly four storeyed, partly two storeyed and partly one storeyed buildings built and erected thereon. By passage of time, the petitioners claim to have acquired the interest in respect of the premises no.20G, Park Street, Kolkata – 700 016 along with a G+5 storeyed building and are recorded owners in respect thereof, in the books of Kolkata Municipal Corporation. According to the petitioners, in the year 2004, the building had four floors and later in the year 2013-14, an additional floor was constructed. Presently, the construction standing at the premises is in conformity with municipal laws. The petitioners claim to have executed a long lease on 25th September, 2024 in respect of the G+4 storeyed building standing thereon in favour of one Abhishek Entertainment & Foods Pvt. Ltd. According to the petitioners, as on 21st July, 2025, No Outstanding Certificate (NOC) has been issued by the office of the Assessor Collector in respect of the said premises. Incidentally, on 3rd July, 2025, the petitioners were served with a notice issued under Section 192(2) of the said Act intimating that the Municipal Commissioner will proceed to amend the municipal books under Section 192(1)(iv) of the said Act in connection with the above premises for the period w.e.f. 3rd quarter of 2004-05 on 22nd July, 2025 at 11:00 A.M., at his chamber. Accordingly, intimation thereof was given to the petitioners. The petitioners were further required to submit their objection, if any, within a period of 3 days from the receipt of such notice.

3. Records would reveal that upon receipt of such intimation, the petitioners had duly filed a written objection in terms of Section 186 of the said Act. The petitioners would contend that once, an objection was filed in connection with the notice under Section 192(2) of the said Act, it was the obligation of the

commissioner to refer the matter to the Hearing Officer and to have the objection heard out in terms of Section 188 of the said Act.

4. Mr. Bhattacharya, learned advocate representing the petitioners has, however, by drawing attention of this Court to the order passed by the Municipal Commissioner would submit that the Municipal Commissioner himself upon determining and disposing of the objection had, inter alia, directed the municipal assessment book to be altered w.e.f. the 3rd quarter of 2004-05 by fixing the annual value at Rs.31,17,660/- by cancelling the existing assessment w.e.f. the 2nd quarter of 2006-07 and the department was directed to proceed accordingly. Following the same, the supplementary bills were raised. Such fact would corroborate from the supplementary bills dated 5th August, 2025 appearing at page nos.109 and 110 of the writ petition. Mr. Bhattacharya would submit that the procedure adopted by the Municipal Commissioner is contrary to the provisions of Section 192(2) of the said Act. According to him, once an objection is filed, it was the obligation of the Municipal Commissioner to have such objection heard out in terms of section 188 of the said Act inasmuch as the provisions of Section 192 of the said Act clearly specifies the manner in which an objection is to be heard. Such a procedure has not been adopted in this case. According to him, there is a procedural irregularity committed by the Municipal Commissioner. Accordingly, all consequential steps taken thereon are bad, the aforesaid is a colourable exercise of power and the same should be set at naught. In support of his aforesaid contention, he has placed reliance on a judgment delivered by the coordinate Bench of this Court in the case of ***Surendra Kumar Jalan and Others v. Calcutta Municipal Corporation and Others***. reported in **AIR 2002 Cal 237**.

5. Mr. Mukherjee, learned advocate appears for the municipality. He would submit that the facts in this case are not in dispute. Admittedly, in this case, the Municipal Commissioner has taken a decision to amend the assessment book. Such decision had been taken in terms of the provisions contained in Section 192 of the said Act. There is no irregularity in this regard. He submits that having regard to the scope of Section 192 of the said Act, once, a decision was taken by the Municipal Commissioner to propose an enhanced valuation, the same was communicated to the petitioners by issuing a notice as appearing at page 112 of the writ petition dated 29th August, 2025. Though the petitioners were at liberty to respond to the same, the petitioners having not responded, the consequence as provided for in Section 192(2) has been applied and a demand has been raised on the petitioners. The petitioners thus, having not responded to the proposal vide notice dated 29th August, 2025, have in fact forfeited their right to object and it is too late in the day for the petitioners to challenge the same on the ground of irregularity or violation of principles of natural justice. The determination of enhanced annual valuation would reflect from the orders all dated 25th February, 2026, which forms part of the interim application being GA/1/2026. Consequent thereupon, supplementary bills have also been raised on the said date. This apart, he would submit that it is the Municipal Commissioner who alone has the power to amend the assessment book under Section 192(2) of the said Act. In support thereof, reliance is placed on the judgment delivered by the Coordinate Bench in the case of ***Sunil Kumar Singh & Anr. v. Kolkata Municipal Corporation & Ors.***, reported in **2010 SCC OnLine Cal 395**.

6. Having heard the learned advocates appearing for the respective parties, I find that in the instant case, a valuation has already been entered in respect of the period with effect from the 3rd quarter of 2004-05 concerning the said premises

in the municipal assessment book in terms of Section 190 and191 of the said Act. Subsequently, a notice under Section 192(2) of the said Act dated 3rd July, 2025 has been issued. The petitioners appear to have responded to such notice by filing a written objection to the proposed enhancement. Admittedly, in this case, the Municipal Commissioner had himself determined the enhanced valuation upon conducting a hearing under Section 192(1)(vi) read with Section 192(2) of the said Act at his chamber on 22nd July, 2025. Following the aforesaid and upon considering the objections as recorded in the said order, the Municipal Commissioner had disposed of the proceedings by passing the following order.

> *"**5. KMC's Prior Knowledge Does Not Excuse Suppression:***
> *While trade license and amusement tax records may indicate business activity, they do not substitute the statutory duty of the Recorded Owners to file correct Returns under Section 182 of the KMC Act. The Lease Agreement was disclosed to KMC only in March 2025, despite having been executed in 2004.*
> *Thus, the objection is also considered and dealt with accordingly.*
>
> ***ORDER:***
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> *Upon consideration of the objection, lease documents, statutory provisions and relevant judicial pronouncements, I hereby amend the Municipal Assessment Book with effect from 3rd Quarter of 2004-05 by fixation of the Annual value at Rs.31,17,660/- and on cancellation of the existing assessment with effect from 2nd quarter of 2006-07.*
> *The department concerned is directed to proceed accordingly and take steps for revision of demand and recovery as per law."*

7. As would appear from above order, the objection raised by the petitioners was clearly dealt with by the Municipal Commissioner. The Municipal Commissioner had directed amendment of the municipal assessment book. The matter did not stop there. The supplementary bills were also generated in furtherance to the aforesaid order dated 4th August, 2025. Subsequently,

however, a notice was issued on 28th August, 2025 proposing the aforesaid enhanced valuation.

8. The question that falls for consideration before this Court is whether the Municipal Commissioner had exceeded his jurisdiction and/or authority in determining and revising the annual valuation and whether by issuance of the notice dated 29th August, 2025, the municipal authority has complied with the provisions of law. In this context, I find and as pointed out by Mr. Bhattacharya, learned advocate representing the petitioners that though the Municipal Commissioner is authorized under Section 192 of the said Act, under certain circumstances noted therein to issue a notice to the recorded owner or the recorded person liable to pay tax of the land and building on which any amendment of the assessment book is intended to be made and though specific procedure has been laid down to be followed by the Municipal Commissioner in case an objection is filed, in this case, I find such procedure was not followed. The Municipal Commissioner has adopted a novel procedure to adjudicate on the objection himself contrary to the provisions of Section 192(2)(ii) of the said Act. Ordinarily, when an objection is filed to a proposed amendment in terms of Section 192(2)(ii), the Municipal Commissioner is under an obligation, having regard to the determination of such objection in terms of Sections 186 to 190 of the said Act, to appoint a Hearing Officer and for the hearing officer to decide the same in accordance with Section 188 of the said Act. The same has not been done. The Municipal Commissioner himself decided on the objection and had passed an order following which supplementary bills had been raised. The manner of exercise of authority by the Municipal Commissioner has already been considered by the coordinate Bench of this Court in the case of ***Surendra Kumar Jalan*** (supra). The Court in paragraphs 15 and 23 has returned the following finding.

15. *After hearing the learned counsel for the parties and after going through the scheme of assessment of valuation as provided in the Act, I find that being dissatisfied with an adjudication made by a Hearing Officer, only remedy available to an assessee is that of an appeal under S. 189 of the Act before Tribunal on compliance of the formalities mentioned therein. The decision of the Tribunal shall be final and annual valuation so determined shall be entered into the Municipal Assessment Book. Once such valuation has been entered into the Municipal Assessment Book as provided under S. 191, the Municipal Commissioner alone can come up with a proposal to amend the said Municipal Assessment Book as provided in S. 192. Such power has been conferred upon the Municipal Commissioner for doing complete justice in case of any mistake, error, fraud or subsequent events and such amendment can be made only after giving notice to the owner/lessee/sub-lessee or occupier of the building. But once objection is raised by such owner/lessee/sub-lessee/occupier to the proposed amendment, the Municipal Commissioner loses his authority to amend and in such a case he is required to send the objection to the proposed amendment to the Hearing Officer for adjudication and thereafter the provisions contained in S. 186 to 189 will apply mutatis mutandis as enjoined by S. 192(2)(ii) of the Act. But if no objection is raised, the Municipal Commissioner can himself amend the Municipal Assessment book.*

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23. *In all the aforesaid decisions the authority concerned had suo motu power of review its own decision and in such circumstance it was held that a party to such decision could ask the authority to review by drawing attention of the authority concern to the mistakes. Those decisions could apply to the present case only if the Municipal Commissioner had the authority to review the decision of the Hearing Officer or the Tribunal. Here, I have already pointed out that the Act does not authorize Municipal Commissioner to adjudicate the objection raised by an assessee against a proposed valuation by him but such objection is decided by the Hearing Officer and threafter by Tribunal in appeal. Thus, it is preposterous to contend that the order passed by the Hearing Officer or Tribunal can be reviewed by the Municipal*

Commissioner at the instance of the assessee. The provision contained in S. 192 is merely a remedial one available to the Municipal commissioner alone. Therefore, the Municipal Commissioner rightly ignored the application for review of the order of Hearing Officer determining objection against proposed valuation."

9. In this context, it may be noted that though, by placing reliance on a judgment delivered by a coordinate Bench of this Court in the case of ***Sunil Kumar Singh & Anr.*** (supra) the learned advocate for the municipality would insist that it is within the power and competence of the Municipal Commissioner to exercise authority under Section 192 of the said Act and the order passed under section 192 of the said Act is in consonance with the provisions of the said Act and the same cannot be doubted, a finding which has been recorded in paragraph 7 of the above judgment, I find that the issue of consideration of the objection by the Municipal Commissioner and the adjudication thereof has not dealt with in the said judgment. What fell for consideration in the aforesaid case is whether the Municipal Commissioner had the power to amend the valuation by invoking the power under Section 192 of the said Act. It is in that context that the Coordinate Bench of this Hon'ble Court by considering the power of the Municipal Commissioner to enhance the valuation even after the final valuation is fixed and is recorded in the municipal assessment book, in paragraph 7 thereof had returned the finding that it is for the Municipal Commissioner alone to take a decision under Section 192. Therefore, ordinarily, a valuation made under the said Act is treated to be final under Section 190 thereof, however, it is the Municipal Commission who enjoys a special power under Section 192 of the said Act to amend the Municipal Assessment book subject to sub-section (2) thereof. This decision to amend, having regard to the provisions of the said Act is only tentative and is subject

to objection as provided for in sub-section (2) thereof. To morefully appreciate the same, Section 192 is extracted hereinbelow:-

> ***"192. Amendment of Municipal Assessment Book.-(****1) Notwithstanding anything contained in section 190 the Municipal Commissioner may, at any time, amend the Municipal Assessment Book-*
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> *(i) by inserting therein the name of any person whose name ought to be inserted; or*
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> *(ii) by inserting therein any land or building previously omitted together with valuation thereof; or*
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> *(iii) by striking out the name of any person or any land or building not liable for the payment of '[property tax]; or*
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> *(iv) by increasing or decreasing for adequate reasons the amount of any annual value and of the '[property tax] thereupon; or*
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> *(v) by making or cancelling any entry exempting any land or building from liability to '[property tax]; or*
>
> *(vi) by altering the assessment on the land or building which has been erroneously valued or assessed through fraud, mistake or accident, in which case such alteration shall take effect from the date such erroneous valuation or assessment took effect; or*
>
> *(vii) by inserting or altering an entry in respect of any building erected, re-erected, or added to, after the preparation of the assessment book, in which case such insertion or alteration shall take effect from the date such erection, re-erection, alteration or addition was made.*
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> *(2) (1) Incidence of '[property tax] on lands and buildings. A notice of not less than fifteen days shall be given to 2[the recorded owner or the re-corded person liable to pay tax] of the land or building of the place, time and date on which any amendment of the Assessment Book is intended to be made under this section.*
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> *(ii) Any person on whom a notice of amendment is served under this sub-section may file an objection in writing to the Municipal Commissioner at Jeast three days before the date fixed in the notice*

and the provisions of sections 186 to 190 shall apply, mutatis mutandis, to such objection."

10. In my view, the aforesaid judgment is not an authority for the manner an adjudication shall be made, once, an objection is filed, the provisions of section 186 to section 190 in such case would apply. Rather the aforesaid judgment deals with the authority of the Municipal Commissioner at the first instance to invoke its powers under Section 192 of the said Act and initiate the amendment process, which power he alone has.

11. The instant matter, however, has another aspect which requires consideration. I find in the instant case, Mr. Mukherjee would submit that notwithstanding a decision being rendered by the Municipal Commissioner initially, since such a decision could only be treated as a proposal, the municipal authority had subsequently issued the notices on 29th August 2025. Since such notices were not responded to, by the petitioner, the orders dated 25th February, 2026 were passed following which supplementary bills were raised. In this context, I may note that for the municipal authority to proceed afresh by issuing the notice dated 29th August, 2025, the Municipal Commissioner ought to have taken a tentative decision at the first instance. The Municipal Commissioner ought not to have disposed of the objection filed by the petitioners. The Municipal Commissioner, in my view, was not clothed with the authority and/or jurisdiction to hear out and decide the objection filed by the petitioners. The aforesaid decision rendered by the Municipal Commissioner dated 4th August, 2025 appears to have been issued in colourable exercise of power, beyond jurisdiction, non est and cannot be acted upon. All consequential steps taken by the municipal authority cannot be sustained. The same including the consequential orders and the supplementary bills are quashed.

12. The matter is remanded back to the municipal authority from the stage of filing of the objection by the petitioners for the Municipal Commissioner to appoint a Hearing Officer in terms of Section 187 of the said Act for a decision to be taken under section 188 thereto. Once, such decision is taken all consequences shall follow.
13. Having regard thereto, the objection fails. The writ petition is allowed.
14. The connected application being GA/1/2026 accordingly stands disposed of.
15. There will be no order as to costs.

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

(RAJA BASU CHOWDHURY, J.)

akg/R. Bose