

OD-08

WPO/898/2025
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

Sri Sankar Ghosh
Versus
Kolkata Municipal Corporation & Ors.

Before:

The Hon'ble Justice RAJA BASU CHOWDHURY

Date: 4th February 2026

Appearance:

Mr. Animesh Paul, Advocate
for the petitioner

Ms. Piyali Sengupta, Advocate
Ms. Manisha Nath, Advocate
for the KMC

Mr. Srinjoy Das, Advocate
Mr. Arvind Singh, Advocate
Mr. Aritra Ghosh, Advocate
Ms. Sneha Das, Advocate
for the respondent nos.4 & 5

The Court: 1. The petitioner claims to be the owner in respect of the premises no.59A, Gokul Boral Street, P.S. Muchipara, Kolkata – 700012 (hereinafter referred to as “the said premises”).

2. According to the petitioner, Smt. Radha Rani Dasi was the absolute owner of the said premises. The petitioner also claims that the said Radha Rani Dasi died intestate on 11th May 1971 leaving behind her two sons, namely, Jitendra Nath Ghosh and Balai Chandra Ghosh (since deceased). Subsequently the said Balai Chandra Ghosh died intestate as bachelor and accordingly Jitendra Nath Ghosh inherited the entire property and became the absolute owner in respect thereof. The said

Jitendra Nath Ghosh died on 22nd December 1987 leaving behind his two sons, namely, Sankar Ghosh who is the petitioner herein, and Gobinda Ghosh. The said Gobinda Ghosh subsequently died intestate on 1st February 2021 leaving behind his wife (since deceased) and two sons, namely, Srikanta Ghosh and Rathin Ghosh who are the respondent nos. 4 and 5.

3. The petitioner claims to have filed a suit for partition before the learned 13th Bench, City Civil Court at Calcutta, which is registered as TS No.269 of 2023, against the respondent nos. 4 and 5. In such suit by an order dated 21st June 2023 the learned 13th Bench, City Civil Court at Calcutta had directed the parties to maintain the status quo in respect of the suit property. Such order of status quo is valid and subsisting. The petitioner also claims that a revocation application being Revocation Case No.2 of 2024 which has been filed by the petitioner for revocation of the grant of probate of the will in respect of the estate of Radha Rani Dasi in O.S. No. 05 of 1974 arising out of Act XXXIX Case No. 65 of 1973 on 10th April 1974 by the Additional District Judge, 12th Court at Alipore is also pending. The petitioner claims that the petitioner had later come to learn that the assessment record had been altered by mutating the said premises on the basis of the above grant of probate. An application seeking revocation of the municipal records has also been filed.

4. The learned advocate representing the respondent nos.4 and 5 has placed before this Court an application under Order XXXIX Rule 2(a) read with section 151 of the Code of Civil Procedure (hereinafter referred to as “the Code”) and would submit that the petitioner has already filed

an application before the civil court for a direction so that the mutation effected vide case no. O/051/26-Jul-24/159453 is cancelled. According to him, the petitioner cannot be permitted to invoke the jurisdiction of the civil Court as also the proceeding before the municipal authority simultaneously. He further submits that the probate of the last will and testament made and published by Radha Rani Dasi has been granted on contest. The revocation is yet to be effected. Accordingly, the order of status quo could not and cannot interfere with the mutation.

5. Ms. Sengupta, learned advocate representing the municipality has placed before this Court a communication dated 21st January 2026 and would submit that the petitioner's representation has duly been considered and hearing has already been granted to the parties in terms of the aforesaid notice dated 21st January 2026. Let the same be taken on record.

6. Having heard the learned advocates representing the respective parties, I find that it is an admitted position that a probate has been granted in respect of the will made and published by Radha Rani Dasi in O.S. No. 05 of 1974 arising out of Act XXXIX Case No. 65 of 1973 on 10th April 1974 by the Additional District Judge, 12th Court at Alipore. Although, a revocation application has been filed, the grant is yet to be revoked. It is well settled that even if the grant is revoked, such revocation does not relate back to the date of the grant but is only prospective. Be that as it may, since the petitioner has already invoked the jurisdiction of the civil court and the municipal authority has taken care of the representation of the petitioner as would corroborate from the

communication dated 21st January 2026, I am of the view that no interference is called for at this stage.

7. The aforesaid order shall, however, not authorise the municipality to decide on legal issues attaching either the grant of the probate or violation of the order of status quo which are currently pending adjudication before the civil court.

8. The writ petition is accordingly disposed of.

(RAJA BASU CHOWDHURY, J.)

R. Bose