06.05.2026
Sayandeep
Sl. No. ML 50
Ct. No. 03

WPA 702 of 2025

Kamal Naha & anr.
Vs.
Kolkata Municipal Corporation & ors.

Dr. Arka Pratim Chaudhury
Mr. Samrat Saha
Ms. D. Das
Ms. A. Roy
..... for the petitioners

Ms. Piyali Sengupta
Ms. Baisali Basu
.... For the KMC

1. The petitioner has filed the writ petition, inter alia, praying for direction upon the municipality to strike off the name of the private respondent as recorded owner in respect of the premises No. 18A Sarat Ghosh street, Kolkata (hereinafter referred to as the said premises). The petitioner claims that the Charubala Naha was the owner of the aforesaid premises, the petitioners acquired interest therein on the strength of a registered probated will dated 13th June, 1986.
2. According to Mr. Chowdhury, learned advocate representing the petitioner subsequent to the demise of Charubala Naha, the petitioner had obtained probate of the said will from the Court of the learned District Delegate, Alipore in Act, 39 case No. 17/1987 and consequent thereon, the petitioners' name was mutated in the records of the municipal Corporation. Subsequently, on the strength of a decree passed by the Civil Court in title appeal No. 47 of 2008 dated 23rd November, 2012 which has since been stayed, the private respondent had got his name recorded as owner in respect of the said premises.

3. Ms. Sengupta, learned advocate appears for the municipality. She submits that the name of the private respondent was recorded on 30th October, 2014 vide mutation case No. O/054/30-OCT-14/87105.
4. Having heard the learned advocates appearing for the respective parties, this Court does not find any explanation for the delay on the part of the petitioners in approaching this Court. Be that as it may, the petitioners have also not chosen to disclose the probate granted by the Court of learned District Delegate Alipore in Act, 39 case No. 17 of 1987. Incidentally, the decree passed in title appeal No. 47 of 2008 dated 23rd November, 2012 has also not been disclosed. It transpires that in second appeal being SA 38 of 2015 on 21st April, 2026, the judgment and decree passed in title appeal No. 47 of 2026 had been stayed for 16 days. According to the petitioners, the aforesaid interim order is yet to be extended.
5. Considering peculiar facts, I do not find any irregularity on the part of the municipal authorities in carrying out the mutation especially when the decree in the title appealwas passed on 23rd November, 2012. However, noting that the aforesaid decree is under challenge, in my view, it shall only be prudent to permit the petitioners to approach this Court once the petitioners succeed in the second appeal.
6. With the above observations and directions, the writ petition is disposed of.

(Raja Basu Chowdhury, J.)