

15.10.2026
Item no. 3
Ct no. 444
RD

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 7868 of 2026

**Manali Samanta
VS
Kolkata Municipal Corporation & Ors.**

Mr. Alak Kumar Ghosh, Adv.
Ms. Manisha Nath, Adv.
Mr. Balai Lal Sahoo, Adv.
Mr. Subhasis Maity, Adv.
Mr. Roop Shankar Roy, Adv.

....for the Petitioner
Mr. Biswajit Mukherjee, Adv.
Ms. Piyali Sengupta, Adv.
... For KMC

1. The present writ petition has been preferred by the writ petitioner primarily assailing notices dated 28th May, 2025 & 30th October 2025.
2. Records would reveal that one MC Shah and Amita Shah (since deceased) jointly purchased a flat situated on the second floor of the building at 77, Hazra Road, Kolkata 700029 having the holding no. 2C, from one Shankar Mukherjee by way of a registered deed of conveyance on 18th March 2016.
3. Shankar Mukherjee, the erstwhile owner, mutated his name in the book of records of Kolkata Municipal Corporation having the Assessee No. 11-085-08-0076-4. During the lifetime of said MC Shah and Amita Shah

jointly executed their last will and testament on 6th January 2017.

4. After the sad demise of the joint owners, the daughter, petitioner herein, obtained a probate on 17.08.2023 in PLA No. 371 of 2022.

5. Under the Waiver Scheme of 2020, after having obtained the right title interest over the property, the petitioner sought reassessment of the annual valuation with effect from the 1st quarter of 2016 – 2017. Although your petitioner duly paid the outstanding property tax upto 31st March 2021.

6. Repeated representations with regard to the re-assessment of property tax have been filed before the concerned authorities and in reply to that a notice under Section 184 and a further notice under Section 184 read with Section 185 of the Kolkata Municipal Corporation Act, 1980 have been served upon the assessee but not upon the petitioner only of the reason that the name of the writ petitioner was not mutated.

7. An objection dated 3rd June, 2024 has been submitted in reply to the notice dated 14th May, 2024, issued by the authority by the petitioner. Subsequent thereto another notice dated January 21, 2025 has been submitted by the writ petitioner for reviewing the notice for payment of outstanding dues dated 16th January 2025.

8. On 13th March, 2025 the Assistant Assessor Collector duly issued a memorandum indicating inter alia that :

“.....With reference to your letter dt: 24.02.25, the following facts again be intimated.

1) Based on your application and submission dt: 21/09/2021 revision of assessment w.e.f 1/2016 was proposed & notice U/S 184 read with U/S 185 was issued on 14/05/2024.

2) Prior to assessment w.e.f 1/2016 another assessment was made w.e.f. 2/2010 based on Certificate of Enlistment being no. 000544008855 Considering "M/S ZEE LEARN LTD" as tenant at a rent Rs. 35000. Notice U/S 184 read with U/S 185 was also issued in respect of such proposed AV on 14/05/2024.

3) It is evident that upon receiving such notices you filed objection against those proposed AV w.e.f. 02/2010 & 01/2016.

4) Accordingly the matter was placed before the hearing officer to hear your objection & after giving ample opportunity the said AV has been fixed by learned hearing officer on 28.09.2024.

5) It is prudent to mention here that you had failed to appear before the Ld. Hearing Officer in 3 consecutive dates i.e. on 30.07.2024, 31.08.2024 & 28.09.2024.

6) Accordingly the necessary demand in respect of those AV has been raised.

7) In your earlier letter you reiterate that this property's erstwhile owner was Sankar Mukherjee & 1 transfer was made 18.03.2016 to M.C SHAH & AMITA SHAH. In this context you may refer Section 183(1), 183(2) & 183(4) & also Section 232 of the KMC ACT 1980 which is self explanatory.

Therefore, you are requested to make payment of the property tax at the earliest failing which KMC has no other option to take appropriate action to realize the property tax as per KMC Act 1980.”

9. Ultimately, on 8th May 2025 your petitioner through her learned lawyer duly submitted a representation for

consideration of the annual valuation (property tax) fixed by the assessing authority time to time in respect of the premises in question. On 28th May, 2025 the authority communicated a memo indicating inter alia that:

“With reference to your letter dt, 08/05/2025 received on 16/05/2025, in this connection this is to inform you that since the proposed A.V Rs. 3,78,000/- w.e.f 02/2010-2011 & 40,640/- w.e.f 01/2016-2017 has already been fixed by H.O. V dt. 28/09/2024, after giving ample opportunity of hearing. There is no room to consider your prayer. 1980. However you may apply before the Municipal Assessment Tribunal U/S 189 of the KMC ACT”

10. Learned Counsel appearing on behalf of the petitioner submits that despite having paid, under the Waiver Scheme of 2020, the entire amount of property tax, Rs. 1,98,332/-, levied on her vide LoI dated 27.01.2021, the respondent Authorities did mutate the property and instead issued another LoI dated 24.02.2021 in the name of the erstwhile owner, one Shankar Mukherjee. Nevertheless, the petitioner clarified vide letter dated 20.09.2021 that the flat was owned by her deceased parents since 18.03.2016, the valuation be subjected to reassessment. The Petitioner also objected to the following increased claim vide letter dated 07.09.2022 but no notice of hearing was issued to her and the Annual Valuation remained decided ex parte and further several hearing notices followed all in the name of the erstwhile owner.

11. It is further submitted that a representation was again made through her advocate requesting for an opportunity to be heard vide letter dated 08.05.2025,

received a template response from the respondent Authority vide letter dated 28.05.2025 denying any consideration and to approach the Municipal Assessment Tribunal u/s. 189 of the KMC Act.

12. Learned advocate appearing on behalf of the respondent authorities submits that the subject property continued to stand recorded in the name of the erstwhile owner, as neither the petitioner's parents nor the petitioner had applied for mutation under Section 183 or submitted the requisite returns under Sections 182 and 182A of the Kolkata Municipal Corporation Act, 1980. Furthermore, by availing the Waiver Scheme, 2020 and paying Rs. 1,89,332, the petitioner had accepted the annual valuation of Rs. 64,800 with effect from the second quarter of 2007-08 and could not subsequently seek its reopening, particularly when her parents acquired possession only on 18th March 2016. The prayer for assessment under the Unit Area Assessment System was also stated to be contrary to the applicable statutory provisions.

13. It is further submitted that, despite notices and opportunities of hearing on 13th July 2024, 31st August 2024 and 28th September 2024, the petitioner failed to appear before the Hearing Officer, resulting in determination of the annual valuations at Rs. 3,78,000 with effect from the second quarter of 2010-11 and Rs. 40,640 with effect from the first quarter of 2016-17. The respondent Corporation also disputed the necessity of

issuing hearing notices in the petitioner's name and maintained that the assessments and consequential demands were lawful and that the writ petition was liable to be dismissed.

14. I have heard the Ld. Advocates appearing for the respective parties and considered the materials on record.

15. The issues which arise for consideration are as follows:

- a. Whether the writ petitioner is entitled to get any relief as prayed for.
- b. Whether petitioner at all submitted any application before the competent authority u/s. 183 of the KMC Act, 1980.
- c. Whether the impugned notice dated 28th May 2025 being annexure P-13 to the writ application suffers from any legal infirmity or perversity.

16. On a bare reading of Section 183 of the said Act, it appears that in a prescribed format an application seeking recording of the name in the Municipal records by acquiring the title over the property in question is required to be served to the Municipal Commissioner.

17. Indisputably the parent of the petitioner did not prefer any application in terms of the Section 183 of the KMC Act, on or after having purchased the premises in question. Even after having obtained the probate by the petitioner, she did not apply for mutating her name in terms of Section 183 of the KMC Act till date, as a result

of which the respondent authority was not aware regarding transfer of title in respect of the premises in question.

18. According to the records of the respondent authorities, the name of the assessee could not be changed only because of the reason that the parent including the writ petition herein did not make any effort to apply in terms of Section 183 of the KMC Act for which all notices in respect of the premises in question was issued and served in the name of erstwhile owner.

19. Mere deposition of the property tax does not alter the name of the assessee unless a person applies before the respondent authorities in terms of sec. 183 of the KMC Act.

20. Mutation is the acknowledgement by the Municipality of any transfer or devolution of any land and building, if such acknowledgement is not made, how the Municipality could levy or revise tax. For mutation fees are charged. Tax is a revenue source of the Municipality for carrying out civic purposes. It cannot be obstructed any way by putting any construction on any provision of the Act.

21. Mutation does not have any presumptive valuation on title. It only enable the person in whose favour mutation is made to pay the revenue.

22. In the instant case, admittedly no application under Section 183 of the present Act addressing to the

Municipal Commissioner was filed by the parent of the petitioner as well as the petitioner herself.

23. Section 185 deals with amendment of assessments. Section 186 speaks about submission of an objection and section 187 of the said Act deals with appointment of the hearing officer. Section 188 deals with hearing of objection and to make finality of the annual valuation in the form of an order which is required to be supplied to the objector, if any. Section 189 is the provision for preferring an appeal against such annual valuation as finally determined under section 188 of the said Act. Section 183 is the provision whereby a change of title over the property or change of occupation of the property could be intimated for recording the name of the person concerned therein.

24. There is a specific provision in the Kolkata Municipal Corporation Act, 1980 that the person aggrieved by any order passed by the assessing authority under Section 188 is having right to prefer and appeal under Section 189 of the Kolkata Municipal Corporation Act, 1980. It is a statutory appeal.

25. The Hon'ble Supreme Court in ***Radha Krishan Industries v. State of H.P.***, reported in (2021) 6 SCC 771 observed that An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained.

26. For the reason discussed above, the writ petition is dismissed.

27. However, it is made clear that, dismissal of the writ petitioner will not prevent the writ petitioner to prefer an appeal under Section 189 of the Kolkata Municipal Corporation Act, 1980. If such appeal is filed before the appellate authority within a period of three weeks from the date of the order in that event the delay so occasioned be condoned by the appellate authority at the time of consideration of the appeal.

28. There shall be no order as to costs.

29. Urgent certified photocopy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Atarup Banerjee, J.)