28.01.2021
Court No. 19
Item No.33
CP

C.O. 3974 of 2018

The Kolkata Municipal Corporation
vs.
Smt. Tandra Ghosh

Mr. Alok Kumar Ghosh
Mr. Swapan Kumar Debnath

.....for the petitioner.

Mr. Deb Kumar Sen
Mr. Sourjya Roy

...for the opposite party.

This revisional application has been filed challenging an order dated March 1, 2016, passed by the learned Municipal Assessment Tribunal, Kolkata Municipal Corporation in Municipal Assessment Appeal being MAA No. 852 of 2013. The said appeal arose out of an order dated February 18, 2013 passed by the Hearing Officer –IV, Kolkata Municipal Corporation.

The matter relates to fixation of the annual valuation in respective of premises no. 52A, Dhiren Dhar Sarani, Kolkata – 700 012, under Ward No. – 051 with effect from 3rd quarter of 2006-2007. The Hearing Officer by an order dated February 18, 2013 assessed the annual valuation of the premises in question w.e.f. 3rd quarter of 2006-2007 at Rs. 18,230/-. It is already on record that the opposite party received rent @ Rs.2055.80 per month for her share of the premises.

The opposite party being aggrieved by and dissatisfied with the fixation of the annual valuation as indicated above, preferred M.A.A. No. 852 of 2013 before the learned Municipal Assessment Tribunal, Kolkata Municipal Corporation. The learned tribunal by an order dated March 1, 2016 allowed the appeal and reduced the annual valuation to Rs.4950/-. The learned tribunal ordered as follows:

"That the M.A.A. No. 852 of 2013 is allowed in full on contest but without cost. The impugned order dated 18.02.2013 of Hearing Officer IV of the Kolkata Municipal Corporation is hereby modified and the ANNUAL VALUATION for premises, namely, 52A, Dhiren Dhar Sarani, Kolkata – 700 012, having Assessee No. 110510601180, w.e.f. 3/2006-07 is fixed at Rs.4950/-.

Let a signed copy of this judgment be sent as soon as possible to the Ld. Municipal Commissioner for information under provision of Rule-25 of the KMC (Taxation) Rules, 1987."

Aggrieved by the aforementioned order, the Kolkata Municipal Corporation has preferred this revisional application.

Mr. Ghosh, learned advocate for the petitioner, submits that the learned tribunal failed to assign any reason in support of the reduction of the annual valuation. He further submits that the annual valuation ought to have been considered by the learned tribunal on the basis of the market rent to be fetched in terms of Section 174 of the Kolkata Municipal Corporation Act. The next contention of Mr. Ghosh is that the learned tribunal failed to consider the inspection book and also the judgment referred to by the corporation at the time of hearing. The learned tribunal further erred in taking the increase of 6% of the annual valuation of the premises which was a rate for the period w.e.f. 1st quarter of 2003-2004.

Mr. Sen, learned advocate appearing for the opposite party, submits that increase of 6% of the valuation of the premises is an accepted procedure followed in such cases and the Kolkata Municipal Corporation has consistently followed the procedure. He further submits that a bare perusal of the calculation would indicate the reasons why the annual valuation was reduced to Rs.4950/- from the 3rd quarter of 2006-2007 and no further reasons were required to be assigned by the learned tribunal.

Having perused the order impugned before this court, I find that the learned tribunal has mentioned the history behind the opposite party's share in the property to the extent of 49.36% but the learned tribunal has failed to show any reason as to why the annual valuation arrived at by the hearing officer was erroneous and the same should be fixed at Rs.4950/- w.e.f. the 3rd quarter of 2006-2007. As the order impugned is bereft of reasons, the same is set aside and quashed. In my opinion, when an order is passed against a party, the aggrieved party has a right to know the reasons which prevailed upon the court or tribunal for having passed the said order. Such reasons are missing and, as such, in my opinion, justice would be subserved if the order impugned is set aside and quashed and sent back to the learned tribunal for hearing afresh.

MAA No. 852 of 2013 is sent back to the learned tribunal for hearing afresh and for a decision on the merits. The learned tribunal is requested to dispose of the said appeal within a period of two months from the date of communication of this order.

The revisional application is disposed of. There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible subject to compliance of all usual formalities.

**(Shampa Sarkar, J.)**