

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Original Side

Present:

The Hon'ble Justice Shampa Sarkar

W.P.O.No.186 of 2020

GA 1 of 2020

(Old GA No.823 of 2020)

Smt. Anuradha Chaudhuri

Versus

The Kolkata Municipal Corporation and others

For the petitioner : Mr. Anirban Roy,
Mr. Arnab Basu Mullick

For the KMC : Mr. Alope Kumar Ghosh,
Mr. Gurudas Mitra,
Mr. S. Panda

For the Proforma Respondent : Mr. Ajay Gaggar,
Mr. Subhajit Ghosh,
Ms. Trini Joarder

Hearing concluded on: 25/11/2020

Judgment on: 19/01/2021

Shampa Sarkar, J. :

The writ petition has been filed by the sole owner of the property being flat No. 11 situated at the Municipal Premises No. 26, Sarat Bose road, Kolkata 700020 (hereinafter referred to as the said premises), which

has been leased out to the respondent No. 6, that is, the Bank of India, the proforma respondent. The petitioner has challenged the entire assessment process of the said premises, praying for setting aside, cancellation and/or rescission of the red cards issued by the Kolkata Municipal Corporation (in short KMC), assessing the valuation of the said premises to be Rs. 10,80,000/- with effect from 1st quarter of 2013-2014 and Rs. 12,96,000/- with effect from 2nd quarter of 2016-2017 along with the supplementary bills dated November 15, 2019, bearing Nos. 2843186, 2843189, 2843192, 2843194, 2843187, 2843190, 2843191 and 2843188. The petitioner has also prayed for setting aside and cancellation of the notice dated March 3, 2020, issued by the KMC for attachment of rent.

2. The facts as pleaded in the writ petition in brief are that on or about July 9, 2013, the respondent No. 6 had taken the premises on lease for a period of 10 years. In terms of the said lease deed, the petitioner was to pay the corporation tax subject to 100% reimbursement by the respondent No. 6. It was mutually agreed that the petitioner would handover the tax bills raised by the KMC to the respondent No. 6, and the respondent No.6 would make the payment directly. Such practice would appear from the payment records maintained in the office of the KMC. As on August 2019, the annual valuation of the said premises was Rs. 7,77,600/-. On September 30, 2019 notices were issued under Sections 184(3) and 184(4) of the Kolkata Municipal Corporation Act, 1980 (hereinafter referred to the said Act), directing the petitioner to appear before the Hearing Officer on November 8, 2019, for assessment of the annual valuation of the said premises. For the 1st quarter of 2013-14 and 2nd quarter of 2016-17, the

annual valuation was assessed at Rs. 10,80,000/- and Rs. 12,96,000/- respectively. The petitioner was put on notice to file a written objection against the above noted valuation and the date of hearing was fixed on November 8, 2019, before the Hearing Officer. That the learned Advocate for the petitioner appeared before the Hearing Officer with the notice along with a copy of the written objection but the Hearing Officer did not accept the objection and did not hold any hearing on the scheduled date. The Hearing Officer directed the learned Advocate for the petitioner to appear before him on the next date. Subsequently, the petitioner was served with red cards and the annual valuations as indicated in the hearing notices were confirmed. Along with the said red cards, supplementary bills dated November 15, 2019, were sent on the basis of the valuation. The order of the Hearing Officer was not served either with the said red cards or the bills. The petitioner through her learned Advocate demanded justice on December 18, 2019, before the KMC, praying for cancellation of the revised assessments and the bills. Despite receipt of the said demand of justice, the KMC did not respond to the same. The KMC also did not provide the order as requested by the petitioner. Thereafter, the Assessor Collector (South) KMC, issued a notice to the Senior Branch Manager of the Bank of India, directing that the rent payable to the petitioner by the said bank, should be paid to KMC. The said notice was a notice for attachment of rent issued in terms of Section 195 read with Section 225 of the said Act and was to take effect from March 1, 2020. The total outstanding property tax of the premises according to the said notice, was calculated at Rs. 42,98,340/-. The principal amount of claim was Rs. 30,17,588/-.

3. Aggrieved by the aforementioned actions of the KMC, the petitioner filed this writ petition.

4. The petitioner failed to get an interim order as prayed for in the writ petition and a direction was issued on June 5, 2020, for exchange of affidavits. The petitioner preferred an appeal along with an application for stay. The said appeal was registered as APOT 22 of 2020. By an order dated July 9, 2020, the Hon'ble Division Bench of this court modified the order dated June 5, 2020, to the extent that the KMC would be entitled to attach 66 and $\frac{2}{3}\%$ of the rent paid by the Bank of India and 33 and $\frac{1}{3}\%$ was directed to be retained by the petitioner. The learned Single Judge was directed to dispose of the writ petition on an urgent basis after exchange of affidavits. This writ petition has now appeared for final hearing.

5. On the point of maintainability of the writ petition, it was urged by the learned Advocate for the petitioner that the writ petition was maintainable as the Hearing Officer passed the orders of assessment without affording an opportunity of hearing to the petitioner. The orders were passed in violation of the principles of natural justice and the statutory provision of appeal would not be a bar. The orders were also not served upon the petitioner. It was further urged that although a letter was issued by the Assessor-Collector (South), KMC on December 26, 2019, purportedly enclosing the objection docket, the orders of the Hearing Officer were not included in the docket. The statements of KMC in their affidavit-in-opposition were vehemently denied. It was further submitted that the fact that an objection docket was prepared in the instant case, would mean that KMC had recognized the right of the petitioner to get a copy of the orders as

an objector and thus the orders were mandatorily required to be served upon the petitioners as per the provisions of the KMC Act.

6. Mr. Anirban Roy, learned Advocate appearing on behalf of the petitioner submitted that this court had held in several decisions that unless the orders of the Hearing Officer were served, the KMC was not empowered to raise the supplementary bills and the assessee was not liable to pay such bills which were raised without service of the order. It was urged that even if the Appellate Tribunal could dispense with the filing of a certified copy of the order, unless, the orders impugned were made available, the petitioner would not be able to frame the grounds of appeal. Mr. Roy drew the attention of the court to the notices dated September 30, 2019 and pointed out that KMC had intimated that a revised annual valuation was to be done due to increase in rent of the premises since the last valuation. He submitted that the orders of the Hearing Officer annexed to the affidavit-in-opposition would reveal that the deduction of 28% towards occupier's share of tax was disallowed with effect from 1st quarter 2013-14 and consequently the inspection book was amended.

7. According to Mr. Roy, the Hearing Officer had merely amended the proposal in the inspection book and as such the reasons for revision assigned in the notice was contrary to the decision arrived at. He further submitted that the bills also contained a period prior to the 2nd quarter of 2013-14, and the petitioner was not liable to pay such bills. That Rs.21,94,304/- lying in the suspense account could be adjusted against such dues. Moreover, the order of the Hon'ble Division Bench directing 66 and $\frac{2}{3}$ % of the rent to be paid by the bank to KMC would cover more than

the admitted dues and no further amount was to be paid by the assessee on the basis of the said orders.

8. Mr. Ajay Gaggar, learned Advocate appearing on behalf of the respondent No.6 submitted that according to the proviso to Section 185 of the said Act, the occupier should be served with a notice and also be given an opportunity of hearing. The bank being in occupation of the said premises which was within the knowledge of the KMC, should have been given an opportunity of being heard. He further submitted that this court had categorically held that KMC could not assess the valuation for any period beyond three years prior to such valuation. He urged that the bank had already deposited considerable amount of the rent, which was lying in the suspense account of the KMC.

9. Mr. Aloke Kumar Ghosh, learned Advocate appearing on behalf of the KMC submitted that the writ petition was not maintainable as the appropriate remedy would be to file of an appeal under the statute. That the petitioner had the right to file an appeal even without a certified copy with the leave of the Appellate Tribunal. He urged that there was nothing on record to show that the petitioner appeared before the Hearing Officer with a written objection through his learned Advocate and the learned Advocate was not heard but was asked to appear on the next date. On two occasions, the petitioner was absent as would appear from the order sheet and as such the question of denying an opportunity of hearing to the petitioner did not arise as the petitioner chose to stay away from the proceeding. According to Mr. Ghosh, had the petitioner been denied an opportunity of hearing, the petitioner would have immediately reacted and demanded copies of the

orders from KMC. Instead, the petitioner wrote a letter through her learned Advocate after one month. He submitted that the Hearing Officer rightly withdrew the benefit of 28% deduction by relying on a decision of the Apex Court because the bank being the lessee was to reimburse to the lessor the entire tax paid to the corporation. Mr. Ghosh submitted that instead of confining the arguments to paragraphs 7 and 9 of the writ petition, the petitioner travelled beyond the pleadings, and wrongly invoked the jurisdiction of this court under Article 226 of the Constitution of India, treating the High Court as an Appellate Forum. The petitioner approached this court under Article 226 of the Constitution of India which was not permissible in law as the period of limitation could not be extended in such a circuitous manner. He urged that the bank was aware of the date of hearing as it was admitted by the petitioner in the application filed with the appeal, that the notice of hearing had been handed over to the bank by KMC. He further submitted that the question of remanding a matter for fresh hearing did not arise as a fresh hearing would be an exercise in futility and just for a ceremonial purpose. Mr. Ghosh referred to Sections 186, 186(3), 189 (5) of the KMC Act, and also to the CMC (Taxation) Rules 1987. According to Mr. Ghosh, the petitioner did not file the written objection in response to the notices dated September 30, 2019 and as such, the petitioner was not entitled to get copies of the orders. He submitted that in the absence of a written objection, the Hearing Officer was at liberty to confirm the proposal of the KMC. According to Mr. Ghosh, the points which were not raised before the quasi-judicial authority could not be raised for the first time before the High Court. He submitted that the petitioner should

have preferred an appeal at least after receiving the copies of the orders which had been annexed to the affidavit-in-opposition filed in this proceeding.

10. Heard the learned Advocates for the respective parties. The point of maintainability of the writ petition is taken up for consideration first. The petitioner has pleaded that on November 8, 2019, the petitioner appeared before the Hearing Officer through her learned Advocate along with a copy of the objection and the notices, but the Hearing Officer did not accept the objection and directed the learned Advocate to appear with a copy of the authority by which he was entrusted to represent the petitioner. It has been further pleaded that the learned Advocate was assured that another date of hearing would be fixed. KMC in its affidavit-in-opposition has denied such statement. The denial is at paragraph 8 of the opposition which has been verified as submissions before this court. Thus, the above statements made by the writ petitioner in paragraph 7 of the writ petition has gone uncontroverted. The Assessor Collector (south), KMC, that is, the respondent No. 3, denied those statements of the petitioner but denial of such facts was neither based on his knowledge nor on the basis of records. The denial was a mere submission of the KMC. The fact remains, that the petitioner was not heard and the orders were passed in the absence of the petitioner. The writ petition is maintainable. Even if the matter was adjourned on two earlier occasions, the Hearing Officer had ultimately decided the matter ex-parte. Existence of an alternative remedy by way of an appeal would not be a bar in such a case. An aggrieved party may approach the High Court under Article 226 of the Constitution of India, despite there

being an alternative remedy in such a situation.

11. In the decision of **Whirlpool Corporation Vs Registrar of Trade Marks, Mumbai and Others** reported in **(1998) 8 SCC 1**, it has been decided that alternative remedy had consistently been held by the Supreme Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any fundamental right, where there has been violation of the principles of natural justice and where the orders or the proceedings were wholly without jurisdiction or the *vires* of an Act was challenged. The rule requiring exhaustion of statutory remedies before filing a writ petition was a rule of policy, convenience and discretion, rather than a rule of law. Much water had flown under the bridge but there had been no erosive effect on these decisions which continue to hold the field with the result that the law as to the jurisdiction of the High Court in entertaining a writ petition under Article 226 of the Constitution of India, inspite of existence of alternative statutory remedies was not affected especially in a case where the authority had acted without jurisdiction or had violated the principles of natural justice. In this case, the writ petition is maintainable as the orders passed by the Hearing Officer were in the absence of the petitioner. The relevant portion of the said judgment is quoted below:-

“17. A specific and clear rule was laid down in State of U.P. v. Mohd. Nooh [AIR 1958 SC 86 : 1958 SCR 595] as under:

“But this rule requiring the exhaustion of statutory remedies before the writ will be granted is a rule of policy, convenience and discretion rather than a rule of law and instances are numerous where a writ of certiorari has been issued in spite of the fact that the aggrieved party had other adequate legal remedies.”

18. This proposition was considered by a Constitution Bench of this Court in A.V. Venkateswaran, Collector of Customs v. Ramchand

Sobhraj Wadhwani [AIR 1961 SC 1506 : (1962) 1 SCR 753] and was affirmed and followed in the following words:

“The passages in the judgments of this Court we have extracted would indicate (1) that the two exceptions which the learned Solicitor General formulated to the normal rule as to the effect of the existence of an adequate alternative remedy were by no means exhaustive, and (2) that even beyond them a discretion vested in the High Court to have entertained the petition and granted the petitioner relief notwithstanding the existence of an alternative remedy. We need only add that the broad lines of the general principles on which the Court should act having been clearly laid down, their application to the facts of each particular case must necessarily be dependent on a variety of individual facts which must govern the proper exercise of the discretion of the Court, and that in a matter which is thus pre-eminently one of discretion, it is not possible or even if it were, it would not be desirable to lay down inflexible rules which should be applied with rigidity in every case which comes up before the Court.”

12. The right to prefer an appeal against the enhanced assessment accrues only with the service of the copy of the order. Simple knowledge of an order would not do away with compliance of the mandatory requirement of law. This was the view of this court in the decision of **Narendra Dev Narayan vs. Calcutta Municipal Corporation & Ors.**, reported in **AIR 2003 CAL 31**. In this case, Mr. Ghosh has vehemently urged before this court that the petitioner was not entitled to copies of the orders as the petitioner was not an objector. In the decision of **Turner Morrison & Co. Ltd. & Ors. vs. State of West Bengal & Ors.**, reported in **(2002) 3 CHN 448**, this court held as follows:-

“31..... Then again, whereas the legislative mandate contained in sub-section (3) of section 188 of the said Act is to supply a copy of the order of the Hearing Officer determining the objections, the form has been prescribed in such a manner that the order of the Hearing Officer on determining the objections is not to be supplied but his decision whether the valuation has been confirmed or reduced is to be communicated. This is not only improper but is also contrary to the statutory mandate. A reading of section 188(3) and proviso to section 189(5) makes it clear that the objector as well as the Tribunal should be made known as to why the objection has been rejected or partly rejected. That appears to be the legislative intent. A quasi-judicial authority, as the Hearing Officer, is required to inform the party to be affected by his decision the reasons therefor and not only the extent of affectation.”

13. Mr. Ghosh sought to distinguish these two decisions on the ground that the petitioner not having filed the written objection, was not required to be served with the orders under the law, and as such the assessment, supplementary bills and notice of attachment of rent should not be set aside on the ground that the copies of the orders were not served upon the petitioner. I do not agree with Mr. Ghosh's contention. In the red cards which were supplied to the petitioner in terms of Form-H, it had been recorded that the same were being issued after consideration of the objection, however, no copies of the orders were attached to the said documents. If the red cards are accepted as the Form- H, then the orders should have been served and non-service of the orders along with the Form-H, amounts to procedural irregularity and non-compliance of the statutory provisions and rules. It is the specific case of the KMC that the objection was not filed by the petitioner. If that be so, the mention about consideration of the objection, in the said Form- H, is a reflection of total non-application of mind a mechanical action on the part of KMC. On the one hand, KMC has urged that the orders were not required to be served upon the petitioner as the petitioner did not file an objection, on the other hand, the alleged Form- H has been issued without the orders although it was mentioned that the objection of the petitioner had been considered. Clearly KMC has treated the petitioner as an objector. In such a situation, the petitioner was entitled to copies of the orders. Thus, the contention of Mr. Ghosh that the petitioner being a non-objector was not entitled to the copies of the orders cannot be accepted. Moreover, by a letter dated

December 26, 2019, which is a document relied upon by the KMC, it has been stated that the order with the objection dockets were sent to the petitioner. The petitioner's learned Advocate denied such statement and categorically stated in the affidavit-in-reply, that the orders were never received. KMC has failed to establish before this court that the orders were sent along with the objection dockets. If the KMC had sent the objection dockets as per the statements made in the affidavit-in-opposition then again, the argument of Mr. Ghosh that the petitioner was not entitled to the orders, does not hold good. The plea of the authority as narrated in the affidavit-in-opposition are contrary to the submissions made by Mr. Ghosh. It is also not a case that the petitioner chose to stay away from the hearing and waived the right to file an objection. The case as made out in the writ petition is that the learned Advocate for the petitioner was present on the date of hearing but was not allowed to file the written objection and was asked by the Hearing Officer to appear on the next day to be fixed in the matter along with his authorization showing that he had been engaged by the petitioner. This statement has been denied by an officer of the KMC in the affidavit-in-opposition, but verified as submission. Neither was this fact within his knowledge, nor was this fact borne out by the records. This statement in the writ petition has gone uncontroverted. Thus the petitioner could not be said to have chosen to stay away from the proceedings thereby waiving her right to be heard and also her right to be served with the orders. Along with the Form-H, copies of the orders of the Hearing Officer were supposed to be served upon the owner or occupier of the premises. As KMC thought it fit to send the objection dockets to the petitioner, the same

should have contained the orders.

14. In the annexure to the notices there are a set of information supplied for necessary action of the assesses. Clause 4 in the list of such information provides that an appeal would lie against an order passed under Section 188 of the KMC Act by the Hearing Officer, only before the Municipal Assessment Tribunal under Section 189 of the said Act and the said appeal should be preferred within 45 days from the date of service of the order passed under Section 188. Thus, the contention of Mr. Ghosh that the petitioner was not entitled to a copy of the order, not having filed a written objection is completely contrary to the information. If the orders were not served, the question of preferring an appeal does not arise. The red cards were in the format of Form-H of the CMC (Taxation) Rules, 1987 and issued in terms of Section 188 (3) of the said Act, on determination of valuation. Sub-Section (3) of Section 188 of the said Act provides that when an objection has been determined, the order in this behalf shall be recorded in the register maintained under Sub-Section 1 with the date, and a copy of the order shall be supplied within 30 days thereof to the person filing the written objection in such form and manner as may be prescribed. On the basis of compliance of this provision, KMC served the red cards in Form-H upon the petitioner. Although copies of the orders were supposed to be attached to the said red cards, the same was not done. Though in the body of the red cards it was mentioned that the copies of the orders were supplied there with. KMC could not prove before this court that the orders were annexed to the red cards and as such the contention of the petitioner as to non-supply of the orders is accepted. The orders were filed along with the

affidavit-in-opposition in this proceeding contrary to the provisions of law, which required the orders to be served within 30 days as per the provisions of Section 188(3) of the said Act. The fact that the orders were not served is doubly established by the submission of Mr. Ghosh that the petitioner not having filed a written objection was not entitled to a copy of the order.

15. In the matter of **H.L. Trehan & Ors. vs Union of India & Ors.**, reported in **AIR 1989 SC 568**, it has been held that it was a well established principle of law that there could not be any deprivation or curtailment of a right or benefit enjoyed by a person, without the compliance of the rules of natural justice. In **M/s Dwarkadas Marfatia & Sons vs. Board of Trustees of the Port of Bombay**, reported in **(1989) 3 SCC 293**, it had been held that all actions of the executive or quasi-judicial authority were open to judicial review and the court could see that such body fulfilled the statutory purpose and acted in public interest and not in an arbitrary manner. Thus, the actions of the KMC in the facts of this case are subject to judicial review, as the KMC had failed to comply with the statutory provisions. Although, this court is not deciding on the merits of the orders passed by the Hearing Officer yet, the court sitting in judicial review can set aside the impugned orders and all subsequent actions arising out of the said impugned orders on the ground that the respondent KMC has acted contrary to law by not following the mandatory statutory provisions.

16. In the decision of **Sudip Kusarye and Anr. vs. The Kolkata Municipal corporation & Ors.**, passed in **WP 354 of 2019**, this court held that as the order of the Hearing Officer was not served upon the petitioner, the petitioner was not under any obligation to make payment of any amount

raised in the bills on the basis of the disputed annual valuation.

17. Mr. Gaggar's contentions that the Bank was entitled to an opportunity of hearing as the Bank occupied the said premises is accepted in view of the proviso to Section 185 of the Act. Section 185 of the said Act is quoted below:-

"185. Amendment of assessments.- The Municipal Commissioner may, at any time,-

(a) Make, suo motu, assessment in any case where a return on the basis of self-assessment has not been filed;

(b) Revise any assessment where the information furnished in the return of self-assessment is found to be incorrect;

(c) Re-open any assessment at any time where it has been detected that there is willful suppression of information;

(d) Impose a penalty not exceeding thirty per cent of property tax arising from non-filing of a return in time or thirty percent of the difference in property tax arising from, giving wrong information or willful suppression of facts:

Provided that in the case of such determination of valuation, a notice stating the proposed valuation shall be issued to the owner or to any lessee, sub-lessee or occupier of the land or the land comprising building or the building, or the portion thereof the such notice shall specify the place, time and date, not less than one month thereafter, when the Municipal Commissioner, or his representative will proceed to consider such valuation:

Provided further that no public notice need be given in such case."

18. The orders of the Hearing Officer reflect that the KMC authority was aware that the respondent No. 6 was the occupier and the lessee. The lease deed was also available with the officer and as such the Bank ought to have been put on notice of hearing specially because the Bank had already deposited some amount of the tax with the corporation which is admittedly in the suspense account of the corporation.

19. Moreover, there cannot be any depreciation and denial of an existing right or benefit by any action involving civil consequence, without substantial compliance with the principles of natural justice. Enhancement of the annual valuation due to the withdrawal of the deduction of 28% of the

occupier's share has visited the petitioner with civil consequences and as such the said orders could not be passed in violation of the principles of natural justice.

20. Reference is made to the decision of **Dipak Babaria & Anr. vs. State of Gujrat & Ors.**, reported in **(2014) 3 SCC 502**, where it has been held that if the law requires a particular thing to be done in a particular manner, it must be done in that manner or not at all. Thus the contentions of the petitioner is accepted. The assessment orders, assessment process, red cards assessing the annual valuation at Rs. 10,80,000/- with effect from the first quarter of 2013-14 and the annual valuation to Rs. 12,96,000/- with effect from 2nd quarter 2016-17 as also the purported bills dated November 15, 2019, Nos.- 2843186, 2843189, 2843192, 2843194, 2843187, 2843190, 2843191 and 2843188 and the notice of attachment of rent dated March 3, 2020, are set aside and quashed on the grounds of violation of the principles of natural justice and non-supply of the orders of assessments. The matter is remanded to the Hearing Officer for fresh assessment. The court also puts on record that substantial amount towards the outstanding bills has already been paid in terms of the order of the Hon'ble Division Bench, that is, 66 and 2/3 % of the rent per month and an amount of Rs. 2194304/- is lying already in the suspense account of KMC. No further payment would be required to be made by the petitioner or the Bank as per the red cards and attachment notice until the fresh assessment is made by the Hearing Officer. The orders, red cards/supplementary bills, notice of attachment dated March 3, 2020, are set aside and quashed.

21. The decision of **A.V. Venkateswaran, Collector of Customs,**

Bombay vs. Ramchand Sobhraj Wadhwani and Anr., reported in **AIR 1961 SC 1506**, relied upon by the Mr. Ghosh is not applicable in this case as the said judgment upheld the principle that the rule of exhaustion of alternative remedy was a rule of policy, convenience and discretion rather than a rule of law and existence of an alternative remedy would be a bar if the party had disabled himself from availing the statutory remedy by his own fault. In this case, the facts do not reveal that the petitioner by her own conduct disabled herself from the remedy of appeal provided under the said Act. Moreover, the question of filing the statutory appeal would have arisen only if copies of the orders were received by the petitioner. In this case, as the orders were not received, the question of filing an appeal did not arise. This court finds that the orders were passed by the Hearing Officer in violation of the principles of natural justice and relegating the petitioner to the Appellate Tribunal would be improper as the petitioner had not filed a written objection before the Hearing Officer and the petitioner could not raise such objections for the first time in appeal.

22. With regard to the decision of **M/s, Recovery Nursing Home Pvt. Ltd. vs. KMC**, reported in **2019 (3) CLJ 389**, this court finds that the said decision was rendered in a situation where the court found the reasons given by the recovery officer to be sufficient and non-filing of a written objection did not denude the Hearing Officer of his jurisdiction to fix the annual valuation. It was held that the Hearing Officer was under an obligation to consider the proposal for revision of the annual valuation whether or not the objection was filed. Thus, this court directed the petitioner therein to prefer an appeal. The facts in this case are

distinguishable, inasmuch as, the petitioner had not been served with the copies of the orders and as such the question of filing the statutory appeal did not arise. The decision in the matter of **Ashok Kumar Sonkar vs. Union of India & Anr.** reported in **(2007) 4 SCC 54** also does not help the KMC. Compelling a citizen to pay enhanced tax without informing her of the reasons for such enhancement is contrary to law and a serious prejudice has been caused to the petitioner herein.

23. The petitioner is not under any obligation to pay the bills raised on the basis of the said orders. The matter is remanded back to the Hearing Officer for fresh hearing. Date of appearance will be intimated to the petitioner and the respondent No.6. The petitioner will be entitled to file the written objection before the Hearing Officer on the date fixed. The Hearing Officer will proceed with the hearing expeditiously. If the petitioner fails to file the written objection on the date fixed, the Hearing Officer will proceed ex parte. The bank will also be given an opportunity of hearing and be allowed to file a written objection. The petitioner and the respondent No.6 shall co-operate with the Hearing Officer and shall not take unnecessary adjournments. Till the disposal of the matter by the Hearing Officer, the current bills will be raised by the KMC on the basis of the previous annual valuation and the petitioner will pay the same. All payments and acceptance will be without prejudice to the rights and contentions of the parties.

24. The writ petition is allowed. GA 1 of 2020 is disposed of.

25. There will be, however, no order as to costs.

Urgent photostat Certified Copy of this judgment, if applied for, be

given to the parties, on priority basis.

(Shampa Sarkar, J.)