ORDER SHEET
A.P.O. No. 55 of 2021
IA No: GA/1/2021
IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

Sharda Devi Bubna & Ors.
Versus
The Kolkata Municipal Corporation & Ors.

BEFORE:
The Hon'ble JUSTICE SUBRATA TALUKDAR
-And-
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA
Date : 13th April, 2021.

Mr. Dhruba Ghosh, Sr. Adv. with Ms. Vineeta Meheria,
Mr. Pushan Kar, Mr. Sagnik Majumdar,
Mr. Dwaipayan Ghosh, Mr. Teeshan Das &
Ms. Dikshita Chomal, Advs.
… for appellants

Mr. Alok Kr. Ghosh with Mr. Fazlul Haque, Advs.
… for KMC

The appellants are the writ petitioners.

The instant appeal is directed against an order dated March 8, 2021 passed by a Hon'ble Single Bench in WPO No.26 of 2020.

The appellants challenged two notices issued under Sections 184(3)/184(4) read with Section 185 of the Kolkata Municipal Corporation Act, 1980 (in short the 1980 Act) by filing the instant writ petition. The principal ground of challenge to the said notices is that the same does not indicate the ground on which the annual valuation was proposed to be enhanced. The other ground of challenge was that the notice bears the date as that of the date of hearing in connection with the proposed annual valuation and the notices were received after the date fixed for hearing.

The Hon'ble Single Bench, by the order impugned, directed the appellants herein to raise all objections before the concerned Hearing Officer of the Kolkata Municipal Corporation at the time of hearing which was fixed on April 20, 2021 at 11-30 a.m.

Mr. Dhruba Ghosh, learned Senior Advocate appearing for the appellants, submits that though a fresh date of hearing was fixed by the Kolkata Municipal Corporation but, the appellants were not informed of the ground on which the annual valuation was proposed to be enhanced. Mr. Ghosh contends that since the ground for such proposed Annual Valuation was not communicated, the appellants cannot raise objection against such proposed Annual Valuation.

Mr. Alok Kr. Ghosh, learned Advocate appearing for the Kolkata Municipal Corporation, submits that the Kolkata Municipal Corporation fixed a fresh date of hearing and the appellants herein did not raise any objection with regard to such date of hearing fixed by Kolkata Municipal Corporation. Mr. Alok Kr. Ghosh contends that the appellants have the right to raise objection against the proposed valuation and the appellants cannot be said to have been prejudiced simply citing the ground that the revision of annual valuation was not mentioned in the notice.

This Court has heard the learned Advocates for the parties and considered the materials on record, particularly the impugned notices appearing at pages 93 and 95 of the stay application pertaining to the Second Quarter of 2007-08 and the First Quarter of 2013-14 dated 31.07.2019 and 01.08.2019 respectively.

After perusing the aforesaid notices this Court find that such notices do not disclose the ground on which the annual valuation was proposed to be revised. In the absence of such disclosure, the object of issuance of such notice is frustrated. Accordingly, this Court find force in the submission of Mr. Dhruba Ghosh that the appellants will not be able to raise objections to the proposed annual valuation as the said notices do not mention the ground for revision of annual valuation. This Court is, therefore, of the considered view that no useful purpose will be served if the appellants attend the hearing fixed before the Hearing Officer on April 20, 2021 as directed by the Hon'ble Single Bench by the order impugned as the said notices suffer from incurable defects.

In view thereof the aforesaid notices cannot be sustained in the eye of law and the same are accordingly set aside and quashed. The impugned order accordingly stands set aside.

The appeal being **A.P.O. No.55 of 2021** along with **G.A. No. 1 of 2021** are accordingly **disposed of** without, however, any order as to costs.

This order shall not, however, preclude the Kolkata Municipal Corporation from issuing any further notice and/or taking appropriate steps with regard to revision of the annual valuation in respect of the premises in question being premises No.7/1, Pandit Rabi Shankar Sarani, Kolkata- 700 027 pertaining to the Second Quarter of 2007-08 and the First Quarter of 2013-14 in accordance with law.

Parties are to act on a server copy of this order.

(HIRANMAY BHATTACHARYYA, J.) (SUBRATA TALUKDAR, J.)

K. Banerjee
A.R. [C.R.]