

OD-1

ORDER SHEET

WPO 356 of 2016

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

KUSUM TULSIAN AND ANR
Versus
KOLKATA MUNICIPAL CORPORATION & ORS

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 7th January, 2021.

(Via Video Conference)

Appearance:

Mr. Ayan Dutta, Adv.

Mr. Pradip Kr. Sarawagi, Adv.

Mr. Alak Kr. Ghosh, Adv.

Mr. Swapan Kr. Debnath, Adv.

The Court: The grievance of the petitioner is directed towards refund of a sum of Rs.30,66,656/- being the alleged excess amount paid to the Corporation authorities.

It is submitted on behalf of the petitioner that in respect of premises no.1, R.N. Mukherjee Road, Kolkata-1 the aforesaid sum has been paid in excess to the Corporation authorities. By an order dated 28th April, 2016 a learned Single Judge of this Hon'ble Court was pleased to admit the writ petition and direct the Corporation not to take any coercive steps against the petitioner without leave of

the Court till disposal of the application. It is submitted on behalf of the petitioner that the petitioner had made a representation dated 20th January, 2016 to the Corporation authorities and the said representation has till not been considered by the Corporation authorities.

Mr. Ghosh appears on behalf of the Corporation authorities and vehemently disputes the submissions made on behalf of the petitioner. He submits that the petitioner is not entitled to any sum of money whatsoever. He further submits that the amount of Rs.30,66,656/- was paid by the tenant of the petitioner and the petitioner cannot in law claim refund of the said amount. He also challenges the locus of the petitioner to make this application. He, however, fairly submits that the respondent no.3 maybe directed to consider the representation of the petitioner and dispose of the same within a particular time period.

I have heard the parties. I have also considered the pleadings filed on behalf of the parties. I am of the view that the writ petition can be disposed of by directing the respondent no.3 to consider the representation of the petitioner (at page 45 of the writ petition) within a period of four weeks from date. I make it clear that the interim order being enjoyed by the petitioner will survive only till the disposal of the representation by the respondent no.3. I also make it clear that I have not gone into the merits of the case and all points are left open to be decided by the respondent no.3 without being influenced by any observation in this order. It is also made clear that the injunction being enjoyed by the petitioner only pertains to dues payable to the Corporation for the period

commencing from third quarter of 1995-96 till second quarter of 2005-06. The Corporation is at liberty to take any steps in accordance with law against the petitioner in respect of the premises for any outstanding taxes except for the aforesaid period till the consideration of the representation.

With the aforesaid directions, WPO 356 of 2016 is disposed off. However, there shall be no order as to costs.

(RAVI KRISHAN KAPUR, J.)

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