

22.11.2022

Item No.04

b.r.

Crt. No. 12

C.O. 107 of 2019

The Kolkata Municipal Corporation

-vs-

Md. Shamim Khan

Mr. Alak Kumar Ghosh

Mr. Swapan Kumar Debnath

..... for the petitioner.

Mr. Javed K. Sanwarwala

..... for the Opposite Party.

Learned advocate for the Kolkata Municipal Corporation and learned advocate for the opposite parties are present.

Heard learned advocates of both the sides at length.

The present case is now taken up for passing appropriate order.

The instant revisional application arises out of the judgement and order dated 2nd of December, 2015 as passed by learned Municipal Assessment Tribunal, 2nd Bench, Kolkata Municipal Corporation in Municipal Appeal being MAA No. 190 of 2020 along with two other appeals being MAA No. 191 of 2010 and MAA No. 192 of 2010.

By the impugned judgement and order, the said tribunal while allowing the said three appeals fixed annual valuation of the properties in question afresjh.

The present petitioner, Kolkata Municipal Corporation felt aggrieved of the quantum of such fixation as well as the manner of such fixation by the said tribunal and thus preferred the instant revisional application.

In course of hearing, learned advocate for the petitioner draws the attention of the Court to the certified copy of the impugned judgement and order. It is contended that while passing the impugned judgement, the tribunal has not assigned any reason for fixation of RR and practically did a guess work which is not permissible in the eye of law.

Learned advocate for the petitioner, Kolkata Municipal Corporation submits that the present revisional application be allowed by setting aside the impugned judgement and order.

Learned advocate for the opposite party in course of his submission draws attention of this Court to the impugned judgement and order. Learned advocate for the opposite party also hands over a photocopy of the judgement passed by the said tribunal in MAA No. 2337 and 2338 of 2005. It is contended that while passing the impugned judgement and order, learned tribunal rightly placed reliance upon the said previous judgement and thus come to a finding with regard to the RR of the premises in question. It is thus submitted that the present revisional application be dismissed.

On perusal of the entire materials as placed before this Court and after hearing learned advocate of both the sides, it appears to this Court that while passing the impugned judgement and order, learned tribunal though relied upon the referred case of the appellant (a photocopy of which is handed over to this Court in course of hearing) but in the impugned judgement, no reason has been assigned as to why the said tribunal is placing his reliance upon the said decision and as to how the referred case of the appellant before him is applicable in the appeals which have been disposed of by the impugned judgement and order.

It further appears that the impugned judgement and order lacks proper clarity which is why this Court considers that the impugned judgement and order should be set aside.

In view of the discussion made above, the instant revisional application succeeds and is allowed on contest. The impugned judgement and order as passed in MAA No. 190 of 2010 along with MAA No. 191 of 2010 and MAA No. 192 of 2010 dated 2nd of December, 2015 as passed by learned Municipal Assessment Tribunal, 2nd Bench, Kolkata Municipal Corporation is/are set aside. The matters are remanded back to the learned Assessment Tribunal, 2nd Court, Kolkata Municipal Corporation with a direction to re-hear the arguments of the learned advocates and/or parties of both sides and to

pass a reasoned judgement on the basis of the materials available in their record and in accordance with law in MAA Nos. 190, 191 and 192 of 2010.

C.O. 108 of 2021 is thus disposed of.

C.O. 108 of 2021 and C.O. 109 of 2019, are also disposed of by this common judgement analogously.

The Department is directed to keep photocopies of this judgement in the case of record of C.O. 108 of 2021 and C.O. 109 of 2019 for future reference.

The photocopy of the judgement as passed in MAA 2337 and 2338 of 2005 and as handed over by learned advocate for the opposite party be also kept with the record.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties in compliance of necessary formalities.

(Partha Sarathi Sen, J.)