

S/L 21
21.03.2022
Court No.19
SD

WPA 1332 of 2022

Chandan Ghosh & Ors.
Vs.
The Kolkata Municipal Corporation & Ors.

Mr. Dibyendu Chatterjee
Ms. Piyali Paul

...for the Petitioners.

Mr. Biswajit Mukherjee
Ms. Piyali Sengupta

...for the KMC.

The petitioners claim to be the heirs and legal representatives of late Thakurdas Ghosh. It is alleged that they are joint owners of premises no.40, Rusa Road (East), 1st Lane, Kolkata – 700033 having Assessee No. 210891700556.

It is contended that the said property was purchased by the late father of the petitioner no.1 under the benami of the mother of the petitioner no.1 and by a decree passed in Title Suit No.416 of 1965 by the learned Munsif, 4th Court at Alipore, the father of the petitioner no.1 was declared to be a owner of the property in question. The fact that the same was purchased in the banami of the mother of the petitioner no.1 was declared by the civil court.

On the strength of such decree, the name of the father of the petitioner no.1 was recorded as the owner in the assessment records of the Kolkata Municipal Corporation. Such assessment records for the period of 2015-2016 have been annexed to the writ petition. The allegation is that

suddenly, the Corporation started issuing bills for payment of the property tax for 2016-2017, by incorporating themselves as the owner of the premises in question and notifying the late father of the petitioner no.1 Thakurdas Ghosh as the occupier thereof.

Several representations and complaints were lodged before the Officers of the Corporation on different dates by the petitioners, but it is alleged that the said representations and complaints were not responded to. Hence, this writ petition.

The learned advocate for the petitioners, by a demand of justice filed before the Assessor Collector, Tolly Tax Department, Kolkata Municipal Corporation dated December 28, 2021, prayed for correction of the assessment records of the Corporation. It is submitted that despite such demand of justice having been raised, the Corporation failed and neglected to take steps in accordance with law. Hence, the writ petition has been filed, seeking correction of the records of the Corporation, by mutating the names of the petitioners in place and instead of late Thakurdas Ghosh as owner thereof.

The reason as to why the change of the name took place is neither before this Court nor is it within the knowledge of the petitioners. The petitioners submit that they were never informed as to how the Corporation has become the owner of the premises in question, in place of the late father of the petitioner No. 1 in whose name the property

has been recorded. The petitioners submit that they are still in occupation of the said premises.

Without going into the disputed questions of facts, this Court is of the opinion that the demand of justice filed by the petitioners through their learned Advocates dated December 28, 2021 must be disposed of by the Assessor Collector, Tolly Tax Department, Kolkata Municipal Corporation in accordance with law, upon hearing the petitioners and any other interested party. A reasoned order shall be passed and communicated to the parties.

During the hearing, the Corporation shall disclose the records to the petitioners and other interested parties on the basis of which, the Corporation had recorded its own name as owner of the premises in question and had recorded the late father of the petitioner no.1 as an occupier. The petitioners shall be entitled to deal with such documents and file additional written statement in response thereof. Thereafter, the petitioners will be allowed to adduce further evidence and the entire issue shall be decided by the Assessor Collector, Tolly Tax Department, Kolkata Municipal Corporation in accordance with law. The reasoned order shall disclose in details, the reasons and proceedings by virtue of which the Corporation had become the owner of the premises in question.

During such hearing, if it is found that the change of the name of the owner was a mistake then rectification shall be done by the Corporation in accordance with law and the

prayers of the petitioners shall be addressed in accordance with law.

The entire exercise shall be completed within a period of six weeks from the date of communication of this order.

Accordingly, the writ petition is disposed of.

There will be no order as to costs.

All parties are directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)