

22.02.2022  
Ct. 21  
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**C.O. 1269 of 2021**  
**(Via Video Conference)**

**The Kolkata Municipal Corporation**  
**-Vs-**  
**Smt. Sreeparna Maharatna**

Mr, Alope Kr. Ghosh,  
Mr. Dwijadas Chakraborty,

... for the petitioner

The present application under Article 227 of the Constitution of India is at the instance of Kolkata Municipal Corporation being aggrieved by judgement passed by Municipal Assessment Tribunal 1<sup>st</sup> Bench, in MAA appeal no. 1162 of 2016 on 21<sup>st</sup> February, 2019 whereby learned Tribunal was pleased to reduce the assessed annual valuation of Rs.25,520/- as assessed by concerned Hearing Officer in respect of a residential flat measuring 879 Sq. ft. with car parking space measuring 120 Sq. ft. situated at premises No. 47 C, Pottery Road, Block-3, 3<sup>rd</sup> Floor, Flat No.- D/3, Shibani Apartment and Ward No. 56 to Rs.12,760/- .

It has been contended by the learned Advocate for the petitioner the impugned judgement is devoid of reasoning and on what basis learned

Tribunal has come to the findings that annual valuation of the premises in question should be Rs. 12,760/-. In cases of assessment of Annual Valuation of old building then what was the market rent prevailing at the time should be taken into consideration with 10% increment thereon every 6 years. In case of new building the present market rent has to be taken into consideration. That learned Tribunal mechanically fixed the value without any reasoning is bad in law.

It appears from the impugned judgement learned Tribunal has assessed the annual valuation taking RR at the rate of 1.20 per sq. ft. per annum as already assessed by it in another appeal being no. MAA 1984 of 2015 in respect of another MPL premises no. 50A/1, Pottery Road. But still there is nothing in the Judgement to show how it came to the finding the rate is Rs.1.20 per sq. ft. per annum along with annual valuation thereof at the rate of 10% per GR and thereby fixed the annual valuation at Rs. 12,760/-.

Therefore, this court is of view learned tribunal cannot make the rate fixed by it in some other cases in respect of properties though situated in the same vicinity as basis of calculation of

annual valuation. Those properties may be situated in the same locality, but the conditions and age of all the buildings cannot be same and amenities attached to each building or apartment may differ from each other. Therefore market rents of properties situated in the same locality may differ from each other. For instance an old property situated in the same locality and without any basic amenities cannot fetch same rent which a new property with modern amenities can fetch. There is nothing in the Judgement the properties of both the Appeals are of same character, age, nature and with same amenities. The impugned judgement being devoid of reason is hereby set aside and send back for fresh hearing.

Accordingly, **C.O 1269 of 2021 is allowed.**

Interim order, if any, stands discharged.

There will be no order as to costs.

Urgent Photostat certified copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

**(Kesang Doma Bhutia, J.)**

