

S/L 25
06.04.2022
Court. No. 19
GB

WPA 19433 of 2021

Arundhati Raychaudhuri
VS
The Kolkata Municipal Corporation & Ors.

*Mr. S.N. Dutta,
Ms. Debjani Ghosh,
Mr. Bhaskar Mukherjee,
Ms. Nafisa Yasmin.*

... for the Petitioner.

*Mr. Biswajit Mukherjee,
Mr. Abhishek Sikdar.*

... for the K.M.C.

The petitioner is aggrieved by the inclusion of the name of the petitioner's sister, Smt. Anuradha Ray as a co-owner in respect of the fourth floor at premises No. 137, Regent Estate, Kolkata-700092 in the assessment register of the Kolkata Municipal Corporation. The contention is that the petitioner is the sole owner in occupation of the fourth floor and the other sister, namely Smt. Anuradha Ray was the owner of the second floor, which was subsequently sold out to Dr. Kollol Paul and Dr. Dipanwita Paul (Ghosh). The contention is that by virtue of the development agreement, the petitioner was allotted the fourth floor and the other sister, Smt. Anuradha Roy was allotted the second floor. Reliance has been placed on the documents, especially the possession certificate given by the developer, in support of such contention.

It is also not in dispute that Smt. Anuradha Ray sold out the second floor to some other persons, whose names appear in the assessment records of the corporation as per the property tax bill for the year 2021-22.

Mr. Mukherjee, learned advocate appearing on behalf of the Kolkata Municipal Corporation submits that the owners, namely, Smt. Arundhati Raychaudhuri and Smt. Anuradha Ray owned the premises jointly. Unless it is shown that by way of a partition the second floor and the fourth floor of the said premises had been separated and were enjoyed by the sisters independently, the corporation would treat them as joint owners.

Heard the learned advocates for the respective parties. It is not in dispute that the second floor was allotted to Smt. Anuradha Ray and the fourth floor was allotted to the petitioner. The letters of allocation and delivery of possession are on record. The second floor has been sold out to some other persons, whose names have already been entered in the assessment book. Thus, there is no impediment on the part of the Corporation to remove the name of Smt. Anuradha Ray from the assessment register in respect of the fourth floor on the basis of the records, which are available with the petitioner including the development agreement. Likewise, the name of the petitioner also,

must be removed from the assessment register with regard to the second floor.

Under such circumstances, the writ petition is disposed of with a direction upon the Assessor Collector, Tolly Tax Department, Kolkata Municipal Corporation, to take into consideration the development agreement, the possession letter, the fact that the second floor had been sold out to third parties and thereafter remove the name of Smt. Anuradha Ray from the assessment records insofar as the fourth floor of 137, Regent Estate is concerned.

While disposing of the prayer of the petitioner on the basis of the representation dated July 8, 2021, the petitioner and Smt. Anuradha Ray or their respective representatives shall be heard. If the Corporation requires any undertaking from the petitioner, the undertaking shall be provided by the petitioner. The development agreement and the allocation made therein, shall be taken as evidence of the fact that the two sisters had been allotted two separate floors and they had owned and possessed their respective portions. Smt. Anuradha Ray who resides at Premises No.64 Jodhpur Park, Flat No.5, Kolkata 700068, shall be given a notice by the Corporation before the hearing. If she fails to appear, the matter shall be proceeded with, ex parte.

The entire exercise shall be completed within a period of three months from date of communication of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)