7th November, 2022
(D/L No.20)
(SKB)

W.P.A. 21024 of 2021

Tapas Dhara and another
-Versus-
The Kolkata Municipal Corporation and others

Mr. Kishore Mukherjee,
Mr. Sankha Subhra Ray
… for the petitioners.

Ms. Gargy Basu
… for the Punjab National Bank.

The petitioners seek appropriate directions on Punjab National Bank in terms of a Demand Notice issued by the Kolkata Municipal Corporation to the petitioners for payment of Property Tax in relation to the area occupied by the Bank in the leased premises.

It is not disputed that the Bank became a lessee in relation to the petitioners' premises by way of an Indenture of Lease dated 19th February, 1998 wherein the petitioners have been described as the lessor and the Bank as a lessee. The carpet area mentioned in the said indenture is 3516 sq.ft. By a second Lease Deed dated 10th July, 2019, the carpet area was reduced to 1786 sq.ft. Both the Deeds contain clauses where the Bank, as the lessee, was liable for 100 per cent payment of commercial surcharge and any other rates and taxes, which may be imposed by the government or the local authorities or any statutory body. This obligation to pay remained unchanged even in the later lease deed.

It is also undisputed that the Bank did not make any payment under the relevant clauses of the lease deeds till 18th November, 2021 as would appear from communication of the Bank which contains an admission that the Bank is not in a position to make any payment of Rs.25,64,521/- immediately to the petitioners. The Bank however stated that it has never refused to abide by the terms and conditions of the lease deeds entered into between the petitioners and the Bank.

The last Demand Notice received by the petitioners for immediate payment of outstanding Property Tax at the concerned premises where the Bank is the lessee is dated 20th June, 2022.

Notwithstanding the fact of reduction of the leased area in the subsequent deed of 2019, the Bank cannot avoid payment as it was contractually obliged to do so from 12th February, 1998 onwards.

W.P.A.21024 of 2021 is accordingly disposed of with a direction on the Punjab National Bank to make payment of the outstanding Property Tax and other charges under the terms of the lease deeds entered into between the parties for the area occupied by the Bank from 1998 to 2019 and for the reduced area occupied by the Bank from 2019 to 30th June, 2022. The payment shall be made to the petitioners within a period of four weeks. It is made clear that in the event the petitioners obtain any exemptions or waivers as recorded in the last Demand Notice, the petitioners shall give the benefit of the same to the Bank under the applicable law.

(Moushumi Bhattacharya, J.)