

Item No. 20

18.07.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 18730 of 2019
Debi Charan Rakshit alias Debi Charone Roquitte & Ors.
v.
Kolkata Municipal Corporation & Ors.

Mr. Asit Baran Routh
Mr. Gautam Das
Ms. Madhumita Patra
... for the petitioners.

Mr. Ranajit Chatterjee
Mr. Gopal Chandra Das
... for KMC.

Mr. Saurav Chaudhuri
... for Parbati Charan Rakshit

Mr. Syed Nurul Arefin
Mr. Rahul Singh
... for the respondent nos. 9 to 11.

The matter relates to the premises no. 82,
Maulana Shawkat Ali Street, P.S.-Jorashako, Kolkata-
700 007 under the Jurisdiction of the Kolkata Municipal
Corporation.

The petitioners claim to be the owners of the
property in question. The petitioners rely upon the
property tax bills issued by the Kolkata Municipal
Corporation for the year 2017-2018 in the name of Smt.
Gopeswari Dasi. The said Smt. Gopenwari Dasi expired
leaving behind her several heirs and legal
representatives.

The petitioners claim to be the heirs of the said Smt. Gopeswari Dasi and claim that they inherited the said property upon obtaining probate of her Will, which was granted in their favour by the learned Court below.

The Kolkata Municipal Corporation relying upon an affidavit allegedly affirmed before the Notary Public has effected changes in the municipal records by incorporating the name of the private respondents.

According to the petitioners, the private respondents are not the owners of the property in question and are not liable to pay tax in respect of the said property.

The petitioners through their learned advocate filed a representation before the Deputy Assessor Collector (North) of the Kolkata Municipal Corporation in April 2019 and allege that the said representation has not been taken up for consideration till date.

Learned advocates appearing on behalf of the private respondents submit that they are also the owners of the property in question.

Learned advocate appearing on behalf of the Kolkata Municipal Corporation submits that there is nothing on record to show that the municipal records were changed after giving opportunity of hearing to all the necessary parties.

As per the provisions of law, prior to effecting any change in the municipal records, the necessary parties ought to be given a reasonable opportunity of hearing. The same has not been done in this case.

In view of the above, the Deputy Assessor Collector (North) being the respondent no. 6 herein is directed to consider the representation filed on behalf of the petitioners in April 2019 strictly in accordance with law, after giving reasonable opportunity of hearing to all the necessary parties and pass a reasoned order in the matter at the earliest, but positively within a period of four months from the date of communication of a copy of this order.

The said respondent shall communicate the reasoned order to all the parties immediately thereafter.

Upon hearing the submissions made on behalf of the parties, necessary steps shall be taken by the Assessor Collector (North) to alter/ change the impugned mutation and raise fresh property tax bills in respect of the persons liable to pay tax.

Learned advocate for the petitioners is directed to serve photostat certified copy of the cause title of the writ petition upon the Kolkata Municipal Corporation to ascertain the persons upon whom the notice of hearing is to be issued.

Learned advocate for the petitioners shall also forward a copy of the representation made before the Deputy Assessor Collector (North) in April 2019 to the aforesaid respondent at the time of communicating the order of this Court.

Mutation shall be effected subject to the compliance of all necessary formalities.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)