List dt.6.6.22
Item No. 182
20.06.2022
d.p.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 22626 of 2019

The Estate of Sree Sree Radha Krishan Jeu represented by its trustees/shebaits namely Ashim Kumar Paul & Ors.
-versus
Kamarhati Municipality & Ors.

Mr. Asit Baran Raut,
Mr. Tuhin Subhra Raut,
Ms. Ishita Raut.
...For the Petitioners.

Mr. Sankha Subhra Ray.
...For the Municipality.

Affidavit-of-service filed in Court today is taken on record.

Learned advocate for the Municipality submits that he has filed Vakalatnama in the department vide filing No. A-9875 dated 10th June, 2022. The department is directed to tag the same with the records.

The matter relates to the premises No. 21, B.T. Road under Ward No. 17 under the jurisdiction of the Kamarhati Municipality.

The petitioners allege that the property in question is a Trust Estate maintained by the Trustees/Shebaits.

The petitioners rely upon the receipt issued by the Kamarhati Municipality showing payment of property taxes in respect of the 4th quarter of 2016-17.

The petitioners allege that for reasons, not intimated to the petitioners, the Municipality has stopped accepting property taxes from the petitioners.

The representation filed on behalf of the petitioners requesting the Municipality to accept property tax has also not been responded by the Municipality.

Learned advocate appearing for the Kamarhati Municipality submits, upon instructions, that on the basis of the objection raised by one Sri Pravash Hazra, a hearing was conducted before Chairman in Council on 11th February, 2016. The aforesaid Pravash Hazra and the representative of the petitioners were present in the hearing.

During hearing it transpired that a civil suit was pending consideration before the Alipore Court.

The Chairman-in-Council resolved to revoke the mutation of the holding till any further development is placed by either of the parties.

Learned advocate appearing for the petitioners submits that the property in question was mutated nearly 75 years back.

The Municipality at the instance of the local councillor is not accepting the property tax from the petitioners.

Learned advocate appearing for the Municipality has failed to show any document restraining the Municipality from collecting taxes.

As the petitioners are occupying the property in question and they claim to be Shebaits of the trust which is running therefrom and are agreeable to pay the taxes in respect of the property enjoyed by them, accordingly, the Municipality is directed to accept the property taxes from the petitioners.

The Municipality is directed to intimate the petitioners the quantum of tax that is due and payable from them.

It is made clear that payment of taxes will not create any right, title or interest in favour of the petitioners. The amount shall be paid by the petitioners and accepted by the Municipality without prejudice to the rights and contentions of either of the parties.

The civil suit which is allegedly pending shall proceed on merits in accordance with law.

The instruction given by the Chairman, Kamarhati Municipality to the learned advocate be kept with the records.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)