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ORDER SHEET
WPO/632/2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MADHAV PRASAD PRIYAMVADA BIRLA APEX CHARITABLE TRUST AND ANR.
VS
KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date : 22ND February, 2022.

Appearance :
Mr. A. Mitra, Sr. Adv.
Mr. A. Banerjee, Adv.
Mr. S. Bhattacharya, Adv.
Mr. B. Kumar, Adv.
Mr. D. Sen, Adv.
...for the Petitioner

Mr. Abhijit Chatterjee, Sr.Adv.
Mr. Tapan Nag Chowdhury, Adv.
Mr. A. Basu, Adv.
...for the Respondent No.5

Mr. Biswajit Mukherjee, Adv.
Ms. Manisha Nath, Adv.
...For K.M.C.

The Court : Mr. Chatterjee, learned Advocate appearing on behalf of the respondent No.5 has filed an affidavit to bring on record certain documents. These documents have been filed in Court in order to demonstrate that the pending dues towards property tax, payable by the Peerless General Finance & Investment Company Limited, the vendor of the petitioner, had been cleared.

Mr. Mitra, learned Senior Advocate appearing on behalf of the petitioner has alleged before this Court that the Corporation could not have issued the demand notice which is marked as Annexure – P-15 at page 52 of the writ petition, claiming past dues of 1998, 1999 and 2002 etc.

According to Mr. Mitra, the petitioner purchased the property in 2008. Mutation was granted some time in 2011. He has raised the question as to whether the Corporation could have granted the mutation, if the entire property tax had not been paid.

Having considered the rival contention of the parties, this Court is of the opinion that the respondents have only intimated to the petitioner about the dues and have raised the demand. The respondent Corporation has also indicated in the said demand, that the assessee/petitioner would have an opportunity to dispute the demand by filing appropriate applications and documents before the appropriate authority.

Having considered the factual discrepancy and the dispute raised by the parties, this Court is of the opinion that the point raised in this writ petition and the points which have been raised by Mr. Chatterjee's client in the affidavit should be adjudicated by the authority.

Under such circumstances, the writ petition is disposed of with the liberty to the parties to file their written version challenging such demand and also file additional documents in support of their contention. The Chief Manager Revenue (South), Kolkata Municipal Corporation shall dispose of the same upon hearing all parties.

Mr. Chatterjee's client, namely, the respondent No.5 shall also be at liberty to approach the authority. The hearing will be held simultaneously.

Let such approach be made within four weeks from date. The decision shall be arrived at by the authority within two months from receipt of the respective petitions of the parties.

A reasoned order shall be passed upon hearing all the parties and communicated to all. No coercive measures shall be taken for a period of two months from the date of communication of the reasoned order.

The regular property tax would be paid by the petitioner and the dispute may be settled before the authority as per law.

The demand notice shall not be given effect to in view of the order passed herein.

(SHAMPA SARKAR, J.)

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