

APOT/164/2022
WITH
WPO/452/2020
I.A.NO:GA/1/2022
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

K. K. SAHA AND CO. (PRIVATE) LIMITED & ANR.
VS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE ARIJIT BANERJEE
The Hon'ble JUSTICE APURBA SINHA RAY
Date : 15TH SEPTEMBER, 2022

Appearance:
Mr. Shuvasish Sengupta, Advocate
Mrs. Subhra Das, Advocate
Mr. Balarko Sen, Advocate
...for appellants
Mr. Alak Kumar Ghosh, Advocate
Mr. Gopal Chandra Das, Advocate
...for KMC

THE COURT: This appeal is directed against an interim order dated September 2, 2022 passed by a learned single Judge in WPO/452/2020.

The appellants/writ petitioners are the owners of the Hatibagan Market in North Kolkata. They approached the learned single Judge with the grievance that Kolkata Municipal Corporation was not collecting the garbage that resulted from the activities in the market premises but was insisting that the garbage should be deposited at a particular place from where the Corporation will collect the same. This, the writ petitioners

argued, was not what is envisaged by the Kolkata Municipal Corporation Act, 1980.

The learned Judge called for a report from the Corporation indicating charges payable by the writ petitioners for removal of garbage. Such report indicated that an amount of Rs.27.77 lakhs approximately was due from the writ petitioners to KMC for the period 2016 till August 2022. The learned Judge directed the writ petitioners to pay a sum of Rs.15 lakhs within a fortnight from the date of the order and the balance within a fortnight thereafter. Being aggrieved, the writ petitioners are before us.

Basically, the dispute between the parties involves two issues. One is, from which place the Corporation authorities are obliged to collect the garbage which results from the activities in Hatibagan Market. The second is, what charges, if any, the Corporation can demand from the appellants for removing such garbage.

We are of the view that the appellants should ventilate their two-fold grievance and any other related grievance that they may have against the KMC, before the Municipal Commissioner who, being a very high authority, will consider such grievance in accordance with law.

Accordingly, we grant liberty to the appellants to make a comprehensive representation to the Municipal Commissioner, KMC, within two weeks from date. If such representation is made, the

Municipal Commissioner shall decide the same in accordance with law as soon as possible and preferably within six weeks from the date of receipt of the representation, by a reasoned order, after giving an opportunity of hearing to the appellants and any other party including the Tenants' association operating at the Hatibagan Market, who may be affected by the order of the Municipal Commissioner.

The order under appeal is set aside.

The appellants shall, without prejudice to their rights and contentions, deposit a sum of Rs.5 lakhs with KMC within two weeks from date. If such deposit is not made, this order shall stand recalled and the appeal shall stand dismissed without further reference to us.

In view of the above order, no useful purpose will be served by keeping the writ petition or this appeal pending. The writ petition (WPO/452/2020) and the appeal (APOT/164/2022) along with the connected application (I.A.NO:GA/1/2022) all stand disposed of.

(ARIJIT BANERJEE, J)

(APURBA SINHA RAY, J.)