

IA NO:GA/1/2022
APO/84/2022
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

SMT. BINA DEBI BAGARIA & ORS.
VS
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

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

Appearance:

Ajay Kumar Bagaria
...Appellant No.1(d) (in person).

Mr. Ranajit Chatterjee, Advocate
Ms. Manisha Nath, Advocate
.....**for KMC**

THE COURT: This appeal is preferred against a judgement and order dated August 10, 2022 whereby the appellants' writ petitions being WPO 346 OF 2019 and WPO 455 of 2019 were disposed of.

The appellants approached the learned single Judge challenging a notice demanding payment of Rs.5.41 Crores approximately on account of arrear property tax, interest and penalty. One of the grounds urged before the learned single Judge was that the appellants are not in occupation of the entirety of the premises in question and the property tax should be apportioned amongst the occupants. The Learned Judge disposed of the writ petitions by granting certain liberties to the writ petitioners on the following terms :-

“Considering the said provisions contained under Section 178(6), this Court grants leave to the petitioners to make an application for apportionment of property tax of the aforesaid premises within a period of thirty days from this date on compliance of necessary formalities. If such application is made for apportionment within the aforesaid period, the Chief Manager, Revenue (North) of KMC, being the appropriate authority as submitted on behalf of KMC, shall take a decision on such application within a period of eight weeks from the date of receipt of such application after granting an opportunity of hearing to the petitioners and other interested [parties.

Petitioners shall also be at liberty to pray for waiver of interest and penalty before the appropriate authority of KMC in addition to making an application for apportionment as directed by this Court. If such application for waiver of interest and penalty is made by the petitioners within a period of thirty days from this date, the appropriate authority of the KMC in its turn shall take a decision within a period of eight weeks thereafter from the date of receipt of such application for waiver. The decision to be taken by the appropriate authority of KMC on waiver shall be communicated to the petitioners within a period of one week thereafter.”

We are told that pursuant to the liberty granted by the learned single Judge, the appellants made an application for apportionment and the same has been disposed of by the competent authority on 14th

September, 2022. If the appellants are aggrieved by the said order they would be at liberty to challenge the same before the appropriate forum if they are entitled to do so in law.

The appellants further say that they have also made an application for waiver of interest and penalty before the appropriate authority. Mr. Chatterjee, learned Advocate for the Corporation does not have instruction regarding such application. However, if such application has been made, the Corporation authorities shall dispose of the same by a reasoned order in accordance with law, within a period of 10 weeks from the date of receipt of a copy of this order by the appropriate authority, after giving an opportunity of hearing to any one of the appellants or their authorized representative. The order so passed shall be communicated to the appellants within a week from the date of the order.

Since the appellants have acted in terms of the liberty granted by the learned single Judge, we see no reason to interfere with the order under appeal.

The appeal and the application are accordingly disposed of with the aforesaid observations.

[ARIJIT BANERJEE, J]

[APURBA SINHA RAY, J.]