APOT/178/2022
WITH
WPO/300/2019
I.A.NO:GA/1/2022
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

DAMODAR ROPEWAYS AND INFRA LIMITED
VS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE
The Hon'ble JUSTICE APURBA SINHA RAY
Date : 30th SEPTEMBER, 2022

*Appearance:*
*Mr. Anindya Kumar Mitra, Sr. Advocate*
*Mr. Rupak Ghosh, Advocate*
*Mr. Zeeshan Haque, Advocate*
*Mr.Shivam Bhimsaria, Advocate*
***...for appellant***
*Mr. Biswajit Mukherjee, Advocate*
*Mr. Debangshu Mondal, Advocate*
*Ms. Manisha Nath, Advocate*
***...for KMC***

THE COURT: On September 21, 2022 we had recorded an order to the following effect :-

*"The appellant's writ petition challenging the assessment of annual valuation for certain periods was dismissed by the learned single Judge by the impugned judgement and order dated August 4, 2022.*

*Mr. Mukherjee, learned counsel representing Kolkata Municipal Corporation, says that as on date the total due on account of* *property tax excluding interest and penalty is Rs.4,41,54,723/-. With interest and penalty the figure is Rs.6,91,82,851/-.*

*Mr. Mitra, learned Senior Advocate for the appellant says that the appellant is ready to pay the principal amount in two equal installments after adjusting the amount of Rs.59,83,831/- which was paid to KMC.*

*In other words, the suggestion of the appellant is that they will pay Rs.4,41,54,723 less Rs.59 lakhs, in two equal installments.*

` *Learned counsel for KMC seeks time to take instructions.*

*List this matter once again on September 28, 2022.*"

Today, Mr.Mukherjee, learned advocate representing Kolkata Municipal Corporation has come back with written instruction. Let such instruction be kept with the records.

It appears from the written instruction that the Corporation is agreeable, as a special case and without creating a precedent, to waive interest and penalty and to accept a sum of Rs.4,41,54,723/- less Rs.59,83,831/-, which comes to Rs.3,81,70,892/- in full and final settlement of its dues on account of property tax for the period in question.

The payment of the said sum of Rs.3,81,70,892/- shall be made by the appellant to the Corporation in two equal monthly instalments, first of which will be payable on or before October 15, 2022 and the second instalment will be payable on or before November 30, 2022.

The appellant wishes to approach the Corporation authorities for review of the assessed property tax. The appellant shall be at liberty to do so. If the appellant makes the review application within a month from date, the appropriate authority shall consider and dispose of the same in accordance with law, by passing a reasoned order within a period of eight weeks from the date of receipt of the application, after giving an opportunity of hearing to the appellant's authorized representative.

In the event of failure on the part of the appellant to pay either of the instalments as indicated above, within the time prescribed, this appeal shall stand dismissed without further reference to Court.

It is made clear that we have not gone into the merits of the case. The order under appeal is substituted by the present order.

The appeal and the connected application are disposed of.

This order is not to be treated as a precedent.

Since we have not called for any Affidavits, allegations made in the application are deemed not to have been admitted by the respondent.

(ARIJIT BANERJEE, J)

(APURBA SINHA RAY, J.)

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