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ORDER SHEET

WPO No.2873 of 2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

OM PRAKASH TANTIA
VS
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 22nd November, 2022.

Appearance:

Ms. Noelle Banerjee, Adv.
Mr. Arnab Sardar, Adv.
Mr. Anirban Sarkar, Adv.
Ms. Shreya Ghosh Dastidar, Adv.
..for Petitioner.

Mr. Gopal Chandra Das, Adv.
Mr. Subhrangsu Panda, Adv.
..for KMC.

The Court:-The matter relates to premises No.21/2, Jatindra Mohan Avenue, Kolkata-700 006. A warrant under Section 221A (1) of the Kolkata Municipal Corporation Act, 1980 was issued by the Municipal Commissioner on 17th August, 2022 on account of non-payment of the property tax due amounting to Rs.1,11,06,261/- only.

According to the petitioner, the said warrant has been issued without following the provision of law. The petitioner submits that the break-up of the due amount was never forwarded and no opportunity of hearing was given to the petitioner prior to issuing the warrant.

The petitioner filed representation through the learned advocate on 14th September, 2022 and alleges that the same has not been taken up for consideration till date.

Learned advocate representing the Kolkata Municipal Corporation submits that an opportunity of hearing was given to the petitioner prior to issuing the warrant. It has been submitted that the petitioner is aware of the break-up amount due as the same is clearly reflected in the Letter of Intimation (LOI) dated 30th August, 2022 annexed at page 105 of the writ petition.

Fact remains that the property tax in respect of the aforesaid property is lying due and pending for more than two decades. It is the duty and the responsibility of the person primarily liable to pay the property tax to clear the dues in proper time. The same has not been done. The matter has reached to the stage of issuance of warrant.

The petitioner has filed objection which is pending consideration at the end of the Municipal Commissioner. Without going into the issue as to whether the warrant was issued in accordance with provision of law or not as it appears that there is a huge amount due and pending on account of the property tax and the petitioner has expressed willingness to liquidate the amount, accordingly, the present writ petition is disposed of by directing the Municipal Commissioner or his delegate to consider the representation filed on behalf of the petitioner on 14th September, 2022 strictly in accordance with law after giving a reasonable opportunity of hearing to the petitioner at the earliest, but positively within a period of six weeks from the date of communication of this order.

The aforesaid respondent shall pass a reasoned order and communicate the same to the petitioner immediately thereafter.

The impugned warrant will not give effect to by the Kolkata Municipal Corporation provided the petitioner pays a sum of rupees fifty lakh to the Kolkata Municipal Corporation prior to the hearing being taken by the concerned Officer of the Corporation.

Writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

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