

D/L
Item No. 7
15.03.2023
KOLE

**MAT 243 of 2023
With
IA No. CAN 1 of 2023
With
IA No. CAN 2 of 2023**

**SNR Construction Pvt. Ltd. & Anr.
-Vs.-
The Kolkata Municipal Corporation & Ors.**

*Mr. Arindam Banerjee,
Mr. Arpita Saha,*

...for the appellants.

*Mr. Biswajit Mukherjee,
Ms. P. Sengupta,*

...for the KMC.

In Re: CAN 1 of 2023:

This is an application for condonation of delay of about 347 days in filing the appeal.

Causes shown being sufficient, the delay is condoned.

CAN 1 of 2023 is, thus, disposed of.

IN Re: MAT 243 of 2023 with CAN 2 of 2023:

By consent of the parties the appeal and the application are taken up for hearing together.

This appeal is directed against a judgment and order dated January 12, 2021, whereby the appellants' writ petition being WPA 2543 of 2020 was disposed of by a learned Single Judge with certain directions.

The appellants/writ petitioners approached the learned Single Judge challenging a letter of intimation which was issued on the basis of enhancement of valuation of the concerned property by the Hearing Officer. Before filing the writ petition, the petitioners had preferred three appeals

before the Municipal Assessment Tribunal challenging the enhancement. During the pendency of the appeals, the letter of intimation was served on the petitioners who accordingly approached the learned Single Judge challenging the same. The learned Judge disposed of the writ petition with the following observations:-

“The petitioners submit that in spite of the aforesaid appeals being pending before the Assessment Tribunal, the Kolkata Municipal Corporation has issued the notice for immediate payment of outstanding dues.

The Municipal Assessment Tribunal is the appropriate authority to decide whether the annual valuation of the property in question has been properly fixed or not.

As it appears that the appeals preferred by the petitioners are pending consideration before the Assessment Tribunal for a considerable period of time, the instant writ petition is disposed of by directing the Kolkata Municipal Assessment Tribunal to take appropriate steps for consideration of the aforesaid appeals, in accordance with law, at the earliest, but positively within a period of four months from the date of communication of a copy of this order.”

Being aggrieved the writ petitioners have come up by way of this appeal.

Appearing for the appellants Mr. Banerjee, learned Advocate, submits that the orders of the Hearing Officer were never made available to the appellants. This is seriously disputed by Mr. Mukherjee, learned Advocate for the Corporation.

Mr. Banerjee says that since the appellants do not have copies of the orders which have been assailed before the Tribunal in the three appeals, the orders could not be filed

along with the appeal and therefore, in the eye of law, the appeals are non-est.

Mr. Mukherjee, learned Advocate points out that the appellants in the three Tribunal appeals have not made the requisite pre-deposit in accordance with Section 189 (6) of the KMC Act, 1980.

We are of the view that the appeals filed before the Tribunal should be decided on merits. The appellants shall make the requisite pre-deposit within four weeks from date.

Mr. Mukherjee, learned Advocate for the Corporation has graciously made over copies of the orders of the Hearing Officer which have been assailed in the three appeals before the Municipal Assessment Tribunal, although he says that copies of such orders had already been made over to the appellants. Mr. Banerjee, learned Advocate for the appellants accepts copies of such orders from Mr. Mukherjee with gratitude.

The appellants shall file copies of the orders assailed before the Municipal Assessment Tribunal within four weeks from date. Upon the pre-deposit being made and copies of the orders being filed, the Municipal Assessment Tribunal shall decide the three appeals on merits, in accordance with law, observing the principles of natural justice. It is expected that the appeals will be disposed of within a period of three months from the date of communication of this order to the learned Tribunal. All points are left open for the Tribunal to decide. We have not gone into the merits of the contentions of the respective parties.

Since we have not called for affidavits, the allegations made in the stay application, are deemed not to be admitted by the respondents.

The appeal and the connected application are, accordingly, disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Apurba Sinha Ray, J.) (Arijit Banerjee, J.)