

S/L 63
16.01.2023
Court. No. 12
Sourav

CO 761 of 2019

**The Kolkata Municipal Corporation
Vs.
Nirendra Nath Dey**

*Mr. Alok Kumar Ghose
Mr. Fazlul Haque*

...for the petitioner.

Affidavit-of-service filed in Court today be kept with the record.

The instant revisional application under Article 227 of the Constitution of India arises out of the order dated 14.02.2017 as passed by the learned 2nd Bench, Municipal Assessment Tribunal, The Kolkata Municipal Corporation in M.A.A. No. 737 of 2013.

By the impugned order the said Tribunal modified the order of hearing officer in respect of the annual valuation of the Flat No. C1 (1st Floor) of premises No. 19B/1, Hazra Road, Kolkata – 700 026 and thus assessed the annual valuation to the tune of Rs. 12,100/-.

In support of the instant revisional application, learned advocate for the revisionist, Kolkata Municipal Corporation submits before this Court that the decision arrived at by the said Tribunal is faulty since the impugned order does not disclose on which basis such modification of the annual valuation has been made by the said Tribunal. It is further submitted that while passing the impugned order, the said Tribunal places his reliance upon a referred case in respect of premises No. 4, Bakul Bagan Row, flat no. 3B, 3rd Floor, Kolkata-25.

It is argued that placing reliance upon the said referred case is equally faulty since the premises as involved in the said referred case and the premises as covered under the impugned order are in different locations and the period of assessment are quite distinguishable as the building under consideration before the Tribunal is a new one in comparison to the building as mentioned in the said referred case.

None appears on behalf of the opposite party to counter the contention as raised by the learned advocate for the revisionist, Kolkata Municipal Corporation.

On perusal of the certified copy of the impugned order, it transpires to this Court that there are sufficient forces in the argument as made by the Kolkata Municipal Corporation. In further considered view of this Court, the Tribunal while passing the impugned order ought to have give specific reason as to why the said Tribunal is modifying the order dated 28.01.2013 of the Hearing Officer and on what basis it is fixing the annual valuation of the property as involved in the impugned order.

In view of such, the instant revisional application being CO 761 of 2019 is allowed. The impugned judgment passed by the learned 2nd Bench, Municipal Assessment Tribunal, The Kolkata Municipal Corporation in M.A.A. No. 737 of 2013 is hereby set aside.

The instant matter is remanded back to the learned Municipal Assessment Tribunal, 2nd Bench, The Kolkata Municipal Corporation with a direction to rehear the arguments of the learned advocates of the parties of both sides and thereafter shall pass a reasoned judgment on the

basis of the materials available on their record and in accordance with law within six weeks from the date of communication of this order.

With the aforementioned observation, the instant revisional application is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Partha Sarathi Sen, J.)