

20.03.2023
Item No.10
Court No.6.
S. De

M.A.T. 420 of 2023
With
I.A. No. CAN 1 of 2023

Merlin Projects Limited & Ors.
Vs
Kolkata Municipal Corporation & Ors.

Mr. Abhrajit Mitra, Ld. Sr. Advocate,
Mr. Arindam Banerjee,
Ms. Rajshree Kajaria,
Ms. V. Kedia,
...for the appellants.
Mr. Alak Kr. Ghosh,
Mr. Swapan Kr. Debnath,
...for the K.M.C.
Mr. Satyajit Talukder,
...for the K.M.D.A.

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

As recorded in our order dated March 15, 2023, the appellants/writ petitioners approached the learned Single Judge challenging notices of hearing issued by the Municipal Commissioner. The writ petitioners took exception to the methodology adopted by the Corporation in assessing the concerned property as appeared from the notices of hearing.

The learned Judge disposed of the writ petition by directing the Municipal Commissioner to take a decision on the representation made by the appellants/writ petitioners.

Being aggrieved, the writ petitioners are before us by way of this appeal.

It has been submitted on behalf of the appellants that the notices of hearing cannot be sustained in view of the provisions of inter alia, Section 176 read with Section 171(8) of the Kolkata Municipal Corporation Act as also the decision of a Single Judge of this Court in **(2016) 3 Cal LT 249 (Fabworth Promoters Pvt. Ltd. & Anr. Vs. Kolkata Municipal Corporation & Ors.)**, affirmed by an Hon'ble Division Bench of this Court in the case of **The Kolkata Municipal Corporation & Anr. Vs. Fabworth Promoters Pvt. Ltd. & Ors.** reported in **(2016) 3 CAL LT 509**.

Mr. Ghosh learned senior counsel appearing for Kolkata Municipal Corporation along with Mr. Debnath, learned advocate strenuously disputes the submission made on behalf of the appellants/writ petitioners.

We are not inclined to go into the merits of the disputes between the parties at this stage. Since a representation has been made by the appellants, let such representation dated December 24, 2019, be disposed of as directed by the learned Single Judge. We clarify that the appellants will be at liberty to rely on all such materials as they may be advised including decisions of Courts. We do not interfere with the order

of the learned Single Judge as we do not find any apparent infirmity therein.

However, in the event the representation of the appellants is rejected or any other adverse order is passed, the same shall not be given effect to and/or the assessment shall not be proceeded with for a period of fortnight from the date of communication of the order to the appellants. This is to give an opportunity to the appellants to challenge any such adverse order before the appropriate forum.

Accordingly, MAT 420 of 2023 is disposed of along with the application being I.A. No. CAN 1 of 2023.

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

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)