

13. 02. 2023

BP
Sl.35
Court No. 12

CO 923 of 2019

The Kolkata Municipal Corporation
Vs.
Raj Mukherjee

Mr. Alok Kumar Ghosh
Mr. Fazlul Haque
..for the petitioner

The petitioner/Kolkata Municipal Corporation is represented by its learned advocate. The affidavit-of-service as filed today on behalf of the revisionist/Kolkata Municipal Corporation be taken on record.

None turns up on behalf of the opposite party.

Heard learned advocate for the revisionist at length. Perused the impugned judgment.

The present revisional application is now taken up for passing appropriate order.

In this revisional application, as filed under Article 227 of the Constitution of India, the order dated 05.12.2017 as passed by learned 2nd Bench, Municipal Assessment Tribunal, Kolkata Municipal Corporation in M.A. Appeal No. 1849 of 2012, has been assailed.

In course of hearing, learned advocate for the revisionist/Kolkata Municipal Corporation submits

before this Court that while passing the impugned order, learned Tribunal has placed his reliance upon a judgement as passed MA.A No. 1819 of 2012, which was also challenged in C.O. No. 3368 of 2017. It is further submitted that while disposing C.O. No. 3368 of 2017 arising out of M.A.A. No. 1819 of 2012, a co-ordinate Bench of this Court by its judgment dated 12.12.2018 was pleased to set aside the said judgment as passed in M.A. Appeal No. 1819 of 2012 with a direction to decide the said appeal afresh in strict compliance with the provisions of the Kolkata Municipal Corporation Act and its prevailing rules. It is thus submitted that in order to maintain judicial discipline and propriety, a similar order may be passed as passed in C.O. No. 3368 of 2017.

On perusal of the entire materials, as placed before this Court, it appears that while passing the impugned judgment, learned Tribunal placed his reliance upon the judgment as passed in M.A.A. No. 1819 of 2012, which has been set aside on 12.12.2018 by the judgment of a co-ordinate Bench of this High Court in C.O. 3368 of 2017.

Such being the position, this Court considers that the impugned judgment as passed in connection with M.A.A. No. 1849 of 2012 is also required to be remanded after setting aside the said impugned

judgment. It is thus ordered that the instant revisional application is hereby allowed. As a result the impugned order dated 05.12.2017 as passed by learned 2nd Bench, Municipal Assessment Tribunal, Kolkata Municipal Corporation in M.A. Appeal No. 1849 of 2012 is hereby set aside.

The matter is remanded back to the learned Tribunal to re-hear the arguments of parties of M.A.A. 1849 of 2012 and thereafter shall pass a reasoned judgment in accordance with the provisions of Kolkata Municipal Corporation Act and its prevailing rules.

Photocopies of the net copy of the judgment as passed in C.O. 3368 of 2017 be taken on record.

Urgent photostat certified copy of this order, if applied for, be given on priority basis.

(Partha Sarathi Sen, J.)

