December 11, 2023
Sl. No.3
Court No.19
s.biswas

CO 1438 of 2022

Sri Ranjan Moulick
vs.
Kolkata Municipal Corporation and others

Mr. Anirban Pal
... for the petitioner
Mr. Alak Kumar Ghosh
Mr. Swapan Kr. Debnath
... for the opposite party/K.M.C.

The revisional application arises out of an order dated September 14, 2021, passed by the learned Municipal Assessment Tribunal, Kolkata in M.A. Appeal Nos.426/2018, 427/2018 and 428/2018. Such appeals were filed in connection with the assessment order dated July 22, 2005 and July 13, 2018 passed by the Hearing Officer/Deputy Municipal Commissioner (II&I)(TTD)/KMC in respect of the municipal premises no.62/61, Haripada Dutta Lane, Kolkata-700033 being Assessee No.21-094-05-0578-1.

Learned counsel refers to page 42 of the application, which is a bill in respect of the premises situated in the same street and locality bearing Assessee No.210940505793. It is urged that the assessment from first quarter of 2006-2007 up to second quarter of 2007-2008, was at the rate or Rs.13/- per quarter. Whereas, the property of the petitioner, was assessed on the basis of the reasonable rent of Rs.2200/-, without any basis and without considering the comparable rate at page 42.

It is further submitted that the annual valuation for the subsequent period with effect from first quarter of 2006-2007 (gap of eight quarters) at Rs.25,340/- was also excessive. Further, when the annual valuation was fixed at Rs.23,760/- with effect from first quarter of 2004-2005, there was no occasion for the authority to enhance the annual valuation by 20%, before expiry of six years. The next submission is that annual valuation of Rs.30,410/- with effect from first quarter of 2012-2013 was also in excess as the same was based on 20% enhancement from the earlier incorrect valuation from the first quarter of of 2006-2007.

It is also submitted that page 42 should have been relied upon by the learned tribunal before passing the order and fixing the annual valuation at Rs.23,760/- with effect from first quarter of 2004-2005. It is urged that the said valuation should be set aside by the court. Resultantly, the other two assessments, i.e., proportionate enhancement by 20% with effect from first quarter of 2006-2007 and thereafter 20% enhancement with effect from first quarter of 2012-2013, also deserve to be set aside.

Mr. Ghosh, learned advocate for the Kolkata Municipal Corporation, submits that the annual valuation at Rs.23,760/-, with effect from first quarter of 2004-2005, was rightly assessed. The petitioner was occupying the said premises since 2004, on the basis of an agreement for sale.

Even if the deed was registered subsequently, the fact that the petitioner had entered into an agreement for sale and was in possession of the premises, had been recorded by the learned tribunal.

It is further submitted by Mr. Ghosh, that page 42 would not be applicable in this case, as the said bill was a consolidated supplementary bill in addition to the earlier claim of the corporation. Thus, rate of Rs.13/- per month in the said bill, in respect of the first quarter of 2006-2007 to the second quarter of 2007-2008 at Rs.13/- per month, was the additional amount that the said assessee was required to pay on the basis of the supplementary bill.

It is next submitted that the petiitoner prayed for reduction of the annual valuation assessed by the hearing officer, with effect from the first quarter of 2004-2005 by citing premises bearing Assessee No. 210940505781. The reasonable rent with regard to the said premises was Rs.2200/- per month with effect from first quarter of 2004-2005. The said reasonable rent of the said premises was found to be comparable by the learned tribunal with the premises of the petitioner.

Coming to the submission of the parties, this court is of the view that the document at page 42 relates to a house in a particular colony, whereas the petitioner's premises is used for commercial purpose. It also appears that the said bill is a supplementary consolidated bill for some assessment years, which is indicative of the fact that an earlier demand was also raised by the corporation, claiming the property tax payable.

Under such circumstances, without any error as to jurisdiction and without any document which would show that the learned tribunal had failed to consider the evidence on record, this court does not deem it fit to pass any orders under Article 227 of the Constitution of India. The factual finding of the learned tribunal with regard to the reasonable rent of Rs.2200/- does not appear to be erroneous, inasmuch as, there is a fundamental basis.

Although the rule requires enhancement at the rate of 20% per GR, after every six years, in this case, such revision was done with effect from first quarter of 2006-2007 (gap of eight quarters), but not at 20%. The proportionate enhancement for eight quarters was calculated and not at the flat rate of 20%. Similarly, the enhancement with effect from first quarter of 2012-2013 (at the gap of one full GR) at the rate of 20% after six years, was rightly done by the learned tribunal.

Under such circumstances, this court does not find any reason to interfere with the order impugned. The learned tribunal set aside the calculations of the hearing officer, upon coming to the finding that the hearing officer had miscalculated the amount by increasing the annual valuation disproportionately and not at the rate which should have been legitimately fixed, in respect of the premises of the petitioner.

The revisional application is accordingly disposed of without any interference.

There shall be no orders as to costs.

Urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Shampa Sarkar, J.)