Item No.18

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

17.05.2023
Ct-24

WPA 11820 of 2021
VVF (India) Limited
v.
The Kolkata Municipal Corporation & Ors.

Mr. Abhratosh Majumder
Mr. Deepak Basu
Mr. Sayan Sinha
... for the petitioner.

Mr. Srijan Nayak
Ms. Tanushree Dasgupta
... for KMC.

The matter relates to the premises no. 7, Tiljala Road, Kolkata-700039.

The Corporation of Calcutta, Tollygunge Tax Department issued a special notice under Section 180 of the West Bengal Act XXXIII of 1951 on January 11, 1978 to the owner of the premises no. 7, Tiljala Road intimating that the premises has been assessed at an annual valuation of Rs. 57,199/- and the said valuation is to remain in force for six years from the commencement of the 3rd quarter of 1876-77.

The Corporation of Calcutta issued the consolidated rate tax bill in favour of the owner of the said premises being Calcutta Chemical Co. Ltd. for the period April to June 1980 and similar bills were raised for the period 1982-1993.

The petitioner claims that the aforesaid Calcutta Chemical Co. Ltd. changed its name to Henkel India Ltd.

The petitioner herein purchased the property along with its assets, liabilities and workers from Henkel India Ltd. in December 2009. The Kolkata Municipal Corporation continued issuing property tax receipts in favour of the erstwhile owner Calcutta Chemical Co. Ltd. till the year 2014-15 by mentioning that the owner of the property is Calcutta Chemical Co. Ltd.

After purchase of the property the petitioner applied for mutation of the same in its name.

The Kolkata Municipal Corporation in May 2016 issued property tax bill wherein it was mentioned that the owner of the property was the Kolkata Municipal Corporation and the occupier, the Calcutta Chemical Co. Ltd.

The amount of property tax required to be paid when the bills were issued in the name of the erstwhile owner, Calcutta Chemical Co. Ltd. remains the same when the bill is raised by mentioning the name of Kolkata Municipal Corporation as owner and the Calcutta Chemical Co. Ltd. as the occupier.

The petitioner sought for information under the Right to Information Act as to how the name of the owner could be changed in the property tax receipts.

Prayer was also made for supplying the copies of documents in support of the alleged claim of ownership and to share the terms and conditions in favour of the occupancy of Calcutta Chemical Co. Ltd. There has been no response from the end of the Corporation. A legal representation was also filed before the Corporation but the same remained unanswered.

In the affidavit-in-opposition that has been filed on behalf of the Kolkata Municipal Corporation it has been mentioned that the property in question is recorded in the list of inventory of immovable properties prepared under Section 540(2) of the Kolkata Municipal Corporation Act, 1980. The same is appearing in the list of immovable properties since the year 2007-08 till date. The inventory of immovable properties for the period 2007-2008 and 2023 and 2024 has been produced in Court.

It appears that the assessee number in respect of the subject premises remains the same even when the name of Calcutta Chemical Co. Ltd. was recorded as the owner and thereafter when the property stood recorded in favour of the Kolkata Municipal Corporation by showing that Calcutta Chemical Co. Ltd. is the occupier.

Apart from the fact that the property in question is included in the list of inventory of immovable properties the Corporation is not able to produce any other document in support of ownership of the property.

The learned advocate for the Corporation has also not been able to satisfy the Court as to how a property of which the Corporation is the owner could have been taxed for the purpose of payment of property tax from a private individual. Documents prior to 2014-15 reveal that the name of the predecessor-in-interest of the petitioner is recorded as the owner of the subject property.

All on a sudden the ownership changes without the knowledge of the recorded owner and the erstwhile recorded owner is described as an occupier of the subject premises.

It is true that mutation is not meant to decide the title of an individual. Mutation is merely for the purpose of identifying the person primarily liable to pay tax.

In the present case, the ownership of the property stood changed by way of issuing the property tax bill without relying upon relevant documents. The aforesaid act of the Kolkata Municipal Corporation in changing the municipal records without granting an opportunity of hearing to the recorded owner is not permissible in law.

Prior to effecting the change in the municipal records, the Corporation ought to have afforded an opportunity of hearing to the recorded owner.

In view of the above, the Commissioner, Kolkata Municipal Corporation is directed to consider the case of the petitioner in accordance with law after giving reasonable opportunity of hearing to the necessary parties and to pass a reasoned order after taking into consideration all the documents and facts placed before the authority.

The aforesaid respondent shall take specific note of the fact that till 2014 the property in question stood recorded in the name of the predecessor-in-interest of the petitioner and property tax receipts were issued in the name of the predecessor-in-interest.

The property could not have been recorded in the list of inventories of immovable properties of the Corporation and at the same time tax receipts issued in the name of the predecessor-in-interest.

A decision shall be taken in the matter at the earliest but positively within a period of eight weeks from the date of communication of this order.

The recording in the records of the Kolkata Municipal Corporation regarding ownership of the Corporation in respect of the subject premises shall not be given effect to and be kept in abeyance till a fresh decision is taken by the Municipal Commissioner in this regard.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of all necessary formalities.

Sh **(Amrita Sinha, J.)**