

Item No.12(ml)

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

06.02.2023
Ct-24

WPA 20281 of 2022
Bhaskar Kumar Chatterjee & Anr.
v.
The Kolkata Municipal Corporation
with
CAN 1 of 2022

Mr. Partha Chakraborty
... for the petitioners.

Mr. Achintya Kumar Banerjee
Mr. Rudranil De
... for KMC.

Mr. Anupam Kumar Bhattacharyya
Mr. Mritunjay Saha
Mr. Dilip Kumar Mandal
... for the respondent nos. 6 & 7.

The petitioners seek identification of the property at 112 B.B. Chatterjee Road, Kolkata-700042. The petitioners claim to be the successors-in-interest of one Jyotish Chandra Chatterjee who was the owner of the premises in question.

The petitioners rely upon the property tax bill raised by the Kolkata Municipal Corporation and submit that there is no outstanding in respect of the said premises up to March 31, 2022.

Presently, the grievance of the petitioners is that the private respondents are forcefully trying to take possession of the property of the petitioners by claiming the said property as premises no. 57E, K.N. Sen Road.

It has been submitted that a portion of the premises no. 112, B.B. Chatterjee Road was acquired by the Calcutta Improvement Trust and the petitioners are in possession and occupation of the balance portion of the said property.

The private respondents, in the garb of occupying the premises no. 57E, K.N. Sen Road, is trying to take forceful possession of the portion of the premises at 112, B.B. Chatterjee Road, which the petitioners are occupying.

The petitioners filed objection before the authorities of the Kolkata Municipal Corporation seeking identification and demarcation of the property and allege that the same has not been considered till date.

Learned advocate representing the private respondents submits that his clients are the owners of the premises no. 57E, K.N. Sen Road and the private respondents are not connected with the property at 112, B.B.Chatterjee Road. The private respondents lay claim only with regard to the property at 57E, K.N. Sen Road.

Learned advocate for the Kolkata Municipal Corporation submits that the petitioners have not annexed all the deeds and records in connection with the premises no. 112, B.B. Chatterjee Road and accordingly, it will not be possible for the Corporation to identify the said land. Reference has been made to page 49 of the writ petition wherein a deed of boundary declaration has been made by one Golak Bihari Chatterjee.

It appears from the submissions made on behalf of the parties that a title suit is pending consideration with respect to the property in question. Only for the purpose

of identification of the property since the Kolkata Municipal Corporation is accepting taxes from the petitioners in respect of premises no. 112, B.B. Chatterjee Road, this Court is of the opinion that the competent authority of the Kolkata Municipal Corporation be directed to consider the representation of the petitioners.

Such representation is annexed at page 249 of the writ petition addressed to the Executive Engineer, Borough-VII, Kolkata Municipal Corporation received by the authority on December 14, 2021. The said representation is yet to be disposed of.

In view of the above, the present writ petition is disposed of by directing the Executive Engineer, Borough-VII to consider and dispose the representation dated December 14, 2021 annexed at page 249 of the writ petition in accordance with law, after giving reasonable opportunity of hearing to the petitioners, the private respondents and all other necessary parties. If required, the Executive Engineer may direct the concerned officers of the Kolkata Improvement Trust (Presently known as KMDA), the land authorities (BL & LRO) and any other necessary parties.

The Executive Engineer shall issue appropriate notice all the parties so that a spot inspection may be conducted to identify the land in question.

It is made clear that the Executive Engineer shall not decide the right, title or interest of the parties and will restrict only to identification of the premises no. 112, B.B. Chatterjee Road, the property in respect of which the Kolkata Municipal Corporation is accepting the property tax.

An order shall be passed by the Executive Engineer and communicated to all the parties.

The Executive Engineer shall endeavour to comply the above direction positively within a period of sixteen weeks from the date of communication of this order.

In view of the order passed herein, connected application being CAN 1 of 2022 filed by the private respondents stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)