27. 31.01.2023
bd. Ct.15

W.P.A. 34108 of 2014

Ms. Sutapa Roy & Anr.
-vs-
The Kolkata Municipal Corporation & Ors.

Mr. Zeeshan Haque
Mr. Deb soumya Basak
Mr. Biswajit Neogi
... for the petitioners.

Mr. Swapan Kumar Debnath
... for the KMC.

The writ petition is presented, inter alia, challenging annual valuation fixed with effect from second quarter of 2007-2008 in respect of the premises of the petitioners as it emanates from the order of fixation of annual valuation which is annexed at page 26 of the writ petition.

On hearing the learned advocate representing the petitioners it appears that petitioners are primarily aggrieved by the order of fixation of annual valuation at Rs. 193790/- with effect from second quarter of 2007-2008. It has been contended on behalf of the petitioners that without granting adequate opportunity of being heard and without consulting the records such annual valuation has been fixed unilaterally by the concerned authority of Kolkata Municipal Corporation, therefore, such order dated 23rd December, 2011 may not be retained on record.

Mr. Debnath, learned advocate representing the KMC has opposed the prayer made on behalf of the petitioners and has defended the decision taken by the concerned authority of KMC dated 23rd December, 2011. It has further been brought to the notice of this Court that under section 189 of the Kolkata Municipal Corporation Act, 1980,there is a provision for preferring an appeal against any decision taken by the concerned authority of KMC fixing annual valuation. It has been urged on behalf of KMC that in spite of having an alternative efficacious remedy available petitioners have straightway approached this Court by presenting the present writ petition.

This Court has heard the learned advocates representing the parties and perused the impugned order dated 23rd December, 2011 passed by the concerned authority of KMC fixing annual valuation of the premises of the petitioners at Rs. 193790/-. In consideration of the contemplation made under section 189 of the Kolkata Municipal Corporation Act, 1980 it appears that the order passed by the appropriate authority of the Corporation is an appealable one. In view of availability of alternative efficacious remedy this writ petition is not maintainable and accordingly the same stands dismissed.

However, this order shall not preclude the petitioners to approach before the appellate authority under section 189 of the Kolkata Municipal Corporation Act, 1980 in accordance with law. If such appeal is preferred by the petitioners, inter alia, challenging the order of assessment of annual valuation dated 23rd December, 2011 within a period of 15(fifteen) days from date the same shall be considered by the appellate authority without taking the point of limitation, as expeditiously as possible.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)