OD-2 ORDER SHEET
WPO No.123 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SHRI RAJENDRA KUMAR MALU
VS.
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:17th April, 2023.

Appearance:
Mr. Asif Hussain, Adv.
Mr. Swapan Nath, Adv.
Ms. Labani Pan, Advocate.
... for the petitioner.

Mr. Gopal Chandra Das, Advocate.
Mr. Rudranil De, Advocate.
... for K.M.C.

Mr. Mahesh Lal Sharma, Adv.
..for Respondent No.14.

The Court:- The petitioner claims to be a licensee of godown space measuring about 1080 sq, ft. in the first floor of the building at 158, Lenin Sarani, Police Station-Taltala, Kolkata-700013.

The owner of the subject premises is in default of payment of property tax. The Kolkata Municipal Corporation issued a distress warrant under Section 219(1) of the Kolkata Municipal Corporation Act, 1980. It appears from the bill raised by the Corporation that as on 13th September, 2022 a sum of Rs. 57,37,919/- is due and payable by the owner of the subject premises.

The petitioner submits that being a licensee of the subject premises he is not liable to pay property tax and it is for the Corporation to recover the tax from the person primarily liable to pay.

The Corporation has put a padlock on the godown for which the petitioner is unable to remove his goods. Prayer has been made to direct the Corporation to release the goods and/or stock lying at the subject premises.

Learned advocate representing the respondent no.14 submits, upon instruction that, his client is the owner of the subject premises and is primarily liable to clear the property tax.

It has been submitted that the respondent no.14 is suffering from various physical ailments and seeks some time to clear all the dues. A sum of rupees ten lakh has been paid by the respondent no.14 to liquidate the property tax dues of the Corporation.

Learned advocate representing the Kolkata Municipal Corporation submits that since a huge sum is due and pending on account of property tax, the Corporation invoked the provision of Section 219(1) of the Kolkata Municipal Corporation Act, 1980 as a mode of recovery of arrear tax.

According to the provisions of the Kolkata Municipal Corporation Act, 1980, recovery proceeding can be initiated in respect of the person primarily liable to pay tax. The petitioner claims to be a licensee of godown in the subject premises. The Corporation ought not to hold on to the goods of the licensee.

It will be open for the Corporation to take steps for recovery of the property tax dues from the person liable to pay tax.

The Corporation is, accordingly, directed to permit the petitioner to remove his personal goods from the godown lying in the first floor of the subject premises at 158, Lenin Sarani, Police Station-Taltala, Kolkata-700013 within a period of four days from the date of communication of this order. The Corporation, after permitting the petitioner to remove the goods may, if required, put the padlock on the said godown for recovery of the arrear taxes in accordance with law.

The writ petition stands disposed of.

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

(AMRITA SINHA, J.)

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