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ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO No.556 of 2023

JASPAL SINGH & ORS.
VS.
THE KOLKATA MUNICIPAL CORPORATION & ORS.

With

WPA No.18871 of 2022

RAJIB SANKER BEED
VS.
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 24th March, 2023.

Appearance in WPO No.556 of 2023
Mr. Arindam Banerjee, Mr. U. S. Menon,
Mr. Abhirup Chakraborty, Advocates for Petitioners.

Mr. Alak Kr. Ghosh, Mr. Swapan Kumar Debnath, Advocates for KMC.

Mr. Amitava Deb, Advocate for the Respondent Nos.6 to 8.

Appearance in WPA No.18871 of 2022
Mr. Amitava Deb, Advocate for the Petitioner.

Mr. Arindam Banerjee, Mr. U. S. Menon,
Mr. Abhirup Chakraborty, Advocates for Respondent nos.6 to 8.

Mr. Alak Kr. Ghosh, Mr. Swapan Kumar Debnath, Advocates for KMC.

The Court:-Petitioners in WPO No.556 of 2023 have challenged the action of the Kolkata Municipal Corporation in issuing notice under Section 183 of the Kolkata Municipal Corporation Act, 1980 dated 21.02.2023 by the Assistant Assessor-Collector (North), Assessment Collection Department, Division No.XVI, Kolkata Municipal Corporation directing the petitioners to apply in the prescribed form (Form No.A-42) along with supporting documents, papers etc. for mutation of name and assessment of flat on separation/apportionment failing which the

Kolkata Municipal Corporation shall take steps suo motu for the purpose of imposition of consolidated rate and realization thereof from the petitioners.

Petitioners immediately objected to the issuance of the said notice by filing a representation dated 27.02.2023. Petitioners are tenants and carrying on business of lodging house/guest house under the name and style of "Central Guest House" from a part/portion of the four premises being 18G, 18H, 18F and 18L, Prafulla Sarkar Street, Kolkata-700072.

Petitioners have annexed rent receipts to show that the rent component includes the Corporation tax and the petitioners are not required to be assessed separately. It is the owners of the premises who are primarily liable to pay tax and not the tenants.

Petitioner in WPA No.18871 of 2022 is the owner of the aforesaid property. The owner is aggrieved by the Letter of Intimation for unpaid property tax issued in his favour in March, 2022.

It appears that a huge sum amounting to Rs. 2 crore and odd is due and payable on account of property tax in respect of the aforesaid four premises.

The landlord intends to pay off the property tax dues but submits that in view of the meagre amount of rent that is received from the tenants of the subject premises, the landlord is unable to meet the tax liability. The owner through his learned advocate filed representation before the Kolkata Municipal Corporation in March, 2022 objecting to the issuance of the said Letter of Intimation.

Learned advocate representing the Kolkata Municipal Corporation submits that admittedly the owner is the person primarily liable to pay tax but for non payment of the property tax by the owner, the liability shifts upon the occupiers to pay the same. Law permits the Kolkata Municipal Corporation to attach rent from the tenants for non payment of the property tax dues.

It appears from the submissions made on behalf of both the parties that a considerable amount is due and payable to the Kolkata Municipal Corporation on account of the property tax in respect of the subject premises. The owner as well as the tenants filed representation before the respondent authority highlighting their grievances.

None of the representations have been considered by the authority till date.

To find out a solution with regard to payment of the property tax dues, the Court thinks it fit to relegate both the parties to the Assessor-Collector (North), Assessment Collection Department, Kolkata Municipal Corporation to grant a hearing to both the parties and to fix a modality by which the property tax dues can be liquidated.

The Assessor-Collector (North), Assessment Collection Department, Kolkata Municipal Corporation is directed to consider and decide the issue in accordance with law at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

A reasonable opportunity of hearing shall be given to both the parties who shall be entitled to rely upon all documents in support of their claim at the time of hearing. A reasoned order shall be passed and communicated to the parties immediately thereafter.

It is made clear that this Court has not entered into the merits of the claim of either of the parties and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representations.

Learned advocates for the petitioners are directed to forward a copy of the respective representations of their clients to the aforesaid respondent at the time of communicating the order of the Court.

It will be open for the Corporation to issue notices of hearing to all other tenants of the subject premises and necessary parties prior to taking a final decision in the matter.

Both the writ petitions being WPO No.556 of 2023 and WPA No.18871 of 2022 are disposed of.

Affidavit of service filed in WPA No.18871 of 2022 in Court today is taken on record.

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

(AMRITA SINHA, J.)

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