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IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/946/2023

SHILA DEY
VERSUS
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE :
THE HON'BLE JUSTICE AMRITA SINHA
Date : 15th May, 2023.

<u>*Appearance:*</u>
Mr. Vinay Misra, Adv.
Mr. S.K. Chakrabarti, Adv.
...for the petitioner.

Mr. Srijan Nayak, Adv.
Ms. Rituparna Maitra, Adv.
...for the KMC.

Mr. Avirup Chatterjee, Adv.
...for the respondent no.6

The Court : The petitioner is the person liable to pay tax in respect of premises no. 85/7/9, Minapara Road, bearing Assessee No. 21-095-05-1435-8. Due to inadvertence the petitioner deposited a sum of Rs.1,51,000/- on account of property tax dues through three bank drafts against Assessee No.21-095-05-1356-1. After realization of the error, the petitioner applied before the Kolkata Municipal Corporation on 12th August, 2021 for adjustment of the money paid by her to liquidate the property tax dues.

The Corporation requested the petitioner to arrange for a 'No Objection Certificate' from the assessee in whose favour the money was credited. The Corporation also issued a letter to the owner of the other property in whose favour the petitioner wrongly deposited the aforesaid amount. No response was received from the private respondent. The petitioner again applied before the Corporation for necessary adjustment.

An official proposal was initiated by the department of the Assessor Collector, Tolly-Tax Department, Kolkata Municipal Corporation seeking permission for transfer of the sum of Rs.1,51,000/- in favour of the petitioner. The Chief Municipal Law Officer opined that there is no scope for transfer of the said amount from one assessee to the other in the absence of a no objection certificate from the respective assessee without the direction of the Court.

The Corporation insists on a 'No Objection' to be issued by the private respondent.

Learned advocate representing the private respondent submits that his client is not aware of any amount that was wrongly deposited in favour of the private respondent. The private respondent claims that there is property tax due in respect of his premises and, accordingly, it is not possible for him to ascertain as to whether any money was erroneously credited in favour of the private respondent.

It appears from the submission made on behalf of the private respondent that he is not interested to issue any 'No Objection Certificate' in favour of the petitioner. That being the situation, the Assessor Collector, Tolly-Tax Department, is directed to adjust the amount which was wrongly credited in favour of the private respondent after proper ascertainment as to whether the bank drafts were actually issued by the petitioner for the purpose of clearing the property tax dues in respect of her own premises.

The Assessor Collector shall afford an opportunity of hearing to the petitioner and the private respondent prior to effecting the adjustment. In the event, the private respondent does not participate in the hearing, it will be open for the Assessor Collector to proceed in the matter by deducting the amount of Rs.1,51,000/- from the credit of the private respondent to the credit of the petitioner.

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

The writ petition being WPO/946/2023 is, thus, disposed of.

The Instruction given by the Assessor Collector, Tolly-Tax Department signed on 13th May, 2023 be retained with the records.

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

(AMRITA SINHA, J.)

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