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ORDER SHEET
WPO No.1226 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

RAKHI DEB
VS.
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date:20th June, 2023.

Appearance:
Mr. Raghunath Chakraborty, Adv.
Ms. Sonali Ghosh Basu, Adv.
Ms. Tenusree Das, Adv.
Md. Afazuddin, Adv.
... for the Petitioner.

Mr. Biswajit Mukherjee, Adv.
Ms. Manisha Nath, Adv.
... for K.M.C.

Mr. Arindam Paul, Adv.
...for Respondent No.9.

The Court:- Grievance of the petitioner is that it was absolutely improper on the part of the Kolkata Municipal Corporation to carve out a portion of the original premises no.628, Rabindra Sarani for creating a separate premises being no.T628A, Rabindra Sarani.

The aforesaid carving out was made in favour of some Agarwals, who claimed themselves as owners of the structure and the Controller, Kolkata Thika Tenancy as their landlord. T628A, Rabindra Sarani is recorded as thika property in the records maintained by the Corporation with effect from 2nd quarter of 1988-89.

The premises no. 628, Rabindra Sarani was separately assessed in the name of the predecessor-in-interest of the petitioner and the said recording was

incorporated in the inspection book of the Kolkata Municipal Corporation with effect from 1st quarter of 1986-87.

Learned advocate appearing on behalf of the petitioner submits that the adjudication with regard to the status of the property as thika is pending consideration before the Controller, Kolkata Thika Tenancy and as such the Kolkata Municipal Corporation ought not to have recorded the status of the property in question as thika.

Learned advocate representing the private respondent no.9 claims to be the successor-in-interest of the erstwhile tenant of the subject premises. It has been submitted that the tenant is not aware with regard to the status of the property. The same is absolutely within the knowledge of the thika authority and the landlord.

Respondent nos.5 to 8 are not represented.

Learned advocate representing the Kolkata Municipal Corporation submits, upon instruction that, the two premises are assessed separately. Premises no.T628A, Rabindra Sarani is recorded as thika property. Proceeding regarding the adjudication of thika is pending consideration before the Controller, Kolkata Thika Tenancy and the recording of thika is in existence since 1988-89.

After hearing all the parties and upon perusal of the documents the Court is of the opinion that it will not be proper at this stage to correct the said recording. As and when there is adjudication by the Controller, Kolkata Thika Tenancy, necessary steps shall be taken by the Kolkata Municipal Corporation to

rectify the records in the event there is any error in the recording of the status of the property.

There is no property tax due in respect of the property in question. It will be open for the petitioner to follow up the matter with the Controller, Kolkata Thika Tenancy. After the adjudication is made, the Kolkata Municipal Corporation shall take steps in accordance with the said adjudication.

It is further made clear that the name of the petitioner is already recorded as the person liable to pay tax in respect of the property at 628, Rabindra Sarani.

Writ petition stands disposed of.

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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