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ORDER SHEET
WPO No.1332 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MESSRS. DUNGERJI PROJECTS PVT. LTD. & ANR.
-Versus-
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:28th August, 2023.

Appearance:
Mr. Nirmalya Dasgupta, Adv.
Mr. R. L. Mitra, Adv.
...for the Petitioners.

Mr. Gurudas Mitra, Adv.
Mr. Dwijadas Chakraborty, Adv.
...for KMC.

The Court:-The matter relates to assessment of annual valuation of premises no.154, Bepin Behari Ganguly Street, Ward No.49, Kolkata-700012.

The annual valuation of the premises till 4th quarter of 2007-2008 was Rs.45,710/- and in the 4th quarter of 2016-2017 the same was revised to Rs.59,420/-. On and from 1st quarter of 2017-2018, annual valuation was assessed at Rs.22,25,660/-.

The primary contention of the petitioners is that they are the lessee of the subject property for a period of 95 years. Agreement for lease was submitted before the Kolkata Municipal Corporation clearly mentioning that the lease agreement was executed in the year 1984 and the same is valid for a period of 95 years. The property tax bills records the name of the owner as the estate of Late Kissen Chand Boral and the lessee, Dungerji Projects Pvt. Ltd.

The petitioners submit that no notice regarding revision/enhancement of annual valuation was ever served upon the lessee whose name is recorded in the property tax bills of the Kolkata Municipal Corporation.

An objection was filed before the Assessor-Collector [North] of the Kolkata Municipal Corporation. The same is yet to be considered.

The Kolkata Municipal Corporation has filed an affidavit affirmed by the Assessor-Collector [North] wherein notice allegedly issued under Sections 184(3)/184(4) read with Section 185 of the Kolkata Municipal Corporation Act, 1980 has been annexed wherein an opportunity was given to the person liable to pay tax to submit an objection to the proposed annual valuation with effect from 4th quarter of 2016-2017. The petitioners submit that there is no proof of service of the said notice.

Affidavit-in-opposition of the Corporation annexes an affidavit allegedly signed by one Balaram Dutta accepting the proposed annual valuation of Rs.59,420/-. Self assessment form allegedly signed by one Balaram Dutta is also annexed with the affidavit-in-opposition filed by the Corporation.

According to the Corporation, annual valuation of the property from the 1st quarter of 2017-2018 was made relying upon the details disclosed in the self assessment form under the unit area assessment system.

It has been submitted that Balaram Dutta, being one of the owners of the subject property, submitted the aforesaid documents along with Aadhaar Card relying upon which the Corporation proceeded to fix the proposed annual valuation of the subject premises.

At this juncture, learned advocate appearing on behalf of the petitioners refers to the information supplied to the petitioners under the Right to Information Act disclosing that as per available records of the Corporation one Basudev Ghosh submitted self assessment form in respect of the subject premises.

Learned advocate representing the Kolkata Municipal Corporation is not aware as to how the name of Basudev Ghosh has been intimated under the Right to Information Act. The document annexed to the report filed by the Corporation discloses the name of one Balaram Dutta who filed the self assessment form.

From the submissions made on behalf of both the parties and upon perusal of the documents placed before this Court, it appears that the names of the petitioners are incorporated in the property tax bills. Lease deed annexed to the affidavit-in-reply discloses that the petitioners are the persons liable to pay tax in respect of the subject property. Without granting an opportunity of hearing to the petitioners, revision of tax ought not to have been made. From the documents annexed by the Corporation in their affidavit, there is nothing to suggest that a prior notice was issued to the petitioners for fixing annual valuation of the subject property.

Without a prior opportunity of hearing, fixation of annual valuation of the subject property even under the unit area assessment system will suffer from the vice of arbitrariness for not complying with the principles of natural justice.

In view of the above, the Assessor-Collector [North] of the Kolkata Municipal Corporation is directed to consider the representation filed by the petitioners on 26.04.2023 and permit the petitioners to submit necessary self assessment form and thereafter proceed to fix annual valuation of the subject property.

The Assessor-Collector [North] of the Kolkata Municipal Corporation shall give an opportunity of hearing to the petitioners prior to passing a final order in the matter.

Owners of the subject property were impleaded as party respondents in the present writ petition and notice was served upon them, but none appeared to contest the writ petition.

It will be open for the Assessor-Collector [North] of the Kolkata Municipal Corporation to grant an opportunity of hearing to the owners of the subject property.

The petitioners are directed to forward the residential addresses of the owners to the aforesaid respondent so that requisite notice may be served upon them.

The aforesaid respondent shall endeavour to conclude the entire exercise at the earliest but positively within a period of four months from the date of communication of this order.

A reasoned order shall be passed and communicated to all the parties immediately thereafter.

Till the issue is decided by the aforesaid respondent, the petitioners are directed to continue payment of the property tax dues as per the annual valuation of Rs.45,710/- only.

Learned advocate appearing for the petitioners are directed to forward a copy of the representation dated 26.04.2023 along with all other supporting documents to the aforesaid respondent at the time of communicating the order of this Court.

The writ petition stands disposed of.

Affidavit of service filed 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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