IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Md. Shabbar Rashidi

FMA 560 of 2009
With
IA No.: CAN 1 of 2008 (Old No.: CAN 8686 of 2008)

The Kolkata Municipal Corporation & Ors.
Vs.
Samir Kumar Tandon & Ors.

For the appellants	:Mr. Biswajit Mukherjee, Advocate Ms. Era Ghose, Advocate
For the Proforma respondents	:Mr. Supratik Shyamal, Advocate Ms. Amrita De, Advocate
Heard & Judgment on	: November 28, 2024

DEBANGSU BASAK, J.:-

1. Appeal is at the behest of the Kolkata Municipal Corporation and directed against the order dated February 18, 2008.

2. By the impugned order, the learned Single Judge set aside the annual valuation from the third quarter 1973-74 to the third quarter 2003-04. Learned Single Judge permitted the writ petitioners to submit respective objections to the Section 184 notices and the Hearing Officer to hear and dispose of such notices in accordance with law.
3. Learned Advocate appearing for the appellants submits that, the writ petitioners claimed title to flats by virtue of registered deed of conveyances of the year 2003. He submits that, at the highest the writ petitioners/private respondents can object to the annual valuation effective from the quarters in which they became owners of the immovable property concerned. Period prior to their date of purchase cannot be allowed to be reopened by the writ petitioners/private respondents as done by the learned Single Judge.
4. In support of such contention, learned Advocate appearing for the appellants relies upon ***2012(3)CLJ(Cal)402 (Rashmay Das vs. The Kolkata Municipal Corporation and Ors.)***, ***2009(1)CHN 382 (Kolkata Municipal Corporation & Ors. Vs. Ram Niranjan Kajaria & Ors.)***.
5. None appears for the writ petitioners/private respondents.
6. Developer of the properties is represented.
7. Learned Advocate appearing for the developer submits that, his client is neither a necessary nor a proper party in the proceeding.
8. We considered the rival contentions of the parties.

9. Writ petitioners/private respondents purchased several flats by individual registered deed of conveyances in 2003. Some of the writ petitioners/private respondents applied for mutation of their respective flats in 2003 with the Kolkata Municipal Corporation.

10. Kolkata Municipal Corporation issued notice dated December 23, 2003 proposing to assess annual valuation in respect of flats in question from the third quarter of 1973-74 to the third quarter of 1997-98. Hearing Officer decided the annual valuation for such third quarter 1973-74 to third quarter 1997-98 on March 3, 2005. Kolkata Municipal Corporation issued notice dated August 9, 2005 proposing assessment of annual valuation with effect from third quarter 2003-2004.

11. Issue before the Court is whether the writ petitioners/private respondents are entitled to challenge the valuation in respect of quarters for the period of time when they were not owners of the property concerned. ***Ram Niranjan Kajaria & Ors.*** *(supra)* is of the view that, Kolkata Municipal Corporation is under no legal duty and responsibility to serve any notice upon the new purchaser under Section 184 of the Kolkata Municipal Corporation Act, 1980.

12. Section 183 of the Kolkata Municipal Corporation Act, 1980 requires a notice to be issued by both the transferor and the transferee along with necessary documents as proof of transfer to the Kolkata Municipal Corporation. The same was not done.

13. In the facts and circumstances of the present case, the writ petitioners/private respondents were not recorded as owners of the individual flats concerned. Therefore, there was no legal necessity on the part of the Kolkata Municipal Corporation to issue notices to the writ petitioners/private respondents for assessment period prior to the date of their purchase.

14. In ***Rashmay Das*** *(supra),* it is held that, Kolkata Municipal Corporation can refuse to mutate the name of the applicant upon non-payment of the dues relating to the property concerned.

15. By the impugned order, the learned Single Judge set aside all the notices for assessment for the period from third quarter 1973 onwards.

16. We are of the view that, writ petitioners/private respondents are not entitled to any notice for the period prior to their purchase as they were not mutated in the records of the Kolkata Municipal Corporation as owners in respect of the property concerned. Noting is placed before us to establish that any of the writ petitioners/private respondents served any notice under Section 183 of the Kolkata Municipal Corporation Act, 1980 on the Kolkata Municipal Corporation.

17. In such circumstances, we set aside the impugned order dated February 18, 2008. We permit the Kolkata Municipal Corporation to proceed with the notice of hearing issued in respect of third quarter 1973 onwards and determine the annual valuation of the property concerned till the date of purchase by the writ petitioners/private respondents.

18. **FMA 560 of 2009** and all connected applications are disposed of accordingly without any order as to costs.

(Debangsu Basak, J.)

19. I agree.

(Md. Shabbar Rashidi, J.)

(AD)