Sl. No. 08

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Gaurang Kanth

M.A.T. 227 of 2024
(CAN 1 of 2024)

Subhra Kalwani Mukherjee
-Vs-
The *Kolkata Municipal Corporation & Ors.*

For the Appellant	:	Mr. Dhiman Roy, Adv., Mr. Dip Chanda, Adv.
For the KMC	:	Mr. Piyali Sengupta, Adv., Ms. Manisha Nath, Adv.
Heard on	:	22.07.2024
Judgment on	:	22.07.2024

Joymalya Bagchi, J. :-

1. Appellant is aggrieved by judgment and order dated 14.12.2023 whereby his prayer to cancel the assessee No.110200201735 was rejected.

2. Appellant's case before the Hon'ble Single Bench was to the effect that one Manoj Nath Mukherjee, her predecessor-in-interest had

purchased the property in 1955. Manoj Nath Mukherjee created a trust where the appellant was the beneficiary. In terms of the trust the property had devolved upon her. It is further contended the property had been mutated in the name of the trust long ago. Suddenly in August, 2022, appellant came to know that a outstanding dues certificate had been issued by the respondent-Corporation in the name of another assessee bearing assessee No. 110200201735 with regard to the said premises. Under such circumstances, the appellant made enquiries and came to know that one Deb Narayan Das and Satya Narayan Das had been recorded as thika tenants in respect of the said property under the Kolkata Thika Tenancy Act. Contending that there was no thika tenant in the property, the appellant approached the Hon'ble Single Bench for cancelling assessee No. 110200201735. Hon'ble Single Bench having dismissed the writ petition, she is before us.

3. In view of the grievance expressed by the appellant, respondent-Corporation was called upon to submit report with regard to the number of assessees in the premises. The report has been submitted today which reads as follows:-

> *"In compliance with the order passed by the Hon'ble High Court at Calcutta dated 14/06/2024 and 28/06/2024 in respect of the MAT 227 of 2024, following report is hereby placed for kind perusal of the Hon'ble Court-*

1. There exists two assesses in respect of the premises nos.19, Ahiritolla Street, Kolkata-700 005, under ward no.20-110200200263 & 110200201735.

2. Details of assess no.110200200263 are as follows:
Recorded Owner: Sri Monoj Nath Mukherjee Trustee
Description: Gr. Floor (Lot B+C+D)I-346 Sq. Ft. Partly shop
4064 Sqft Residential
Annual Value: Rs.1,09,580/- with effect from 2/2019-20
This assess had been assessed prior to the promulgation of the Kolkata Municipal Corporation Act, 1980.

3. Details of assess no.110200201735 are as follows:
Recorded Owner: Govt of West Bengal, Represented by the Controller of Kolkata Thika Tenancy, Person Liable to pay Tax: Deb Narayan Das, Satya Narayan Das
Description: Lot A(Gr. Floor) 304 Sq. Ft-partly shop
Gr. Floor (Resi): 1421 Sq Ft-Residential
Lot A(II storey): 1725 Sq Ft-Partly Residential with Corrugated Shed
Annual Value: Rs.70,600/- with effect from 2/2019-20
This assessee had been assessed with effect from 2/2019-20 vide Memo no.issued by the Controller, Kolkata Thika Tenancy, bearing No.316/XX/KTT/2022 dated 17/02/2022."

4. Learned Advocate contends no notice had been given to him prior to issuance of a new assessee number with regard to the premises. No thika tenancy had been created in the property at any time whatsoever.

5. Learned Advocate for the respondent-Corporation submits names of Deb Narayan Das and Satya Narayan Das have been entered as thika tenants under the Government of West Bengal in the records of the

Controller under Kolkata Thika Tenancy Act. In view of the aforesaid entry, new assessee number was issued.

6. We have considered the rival versions of the parties. Admittedly, Deb Narayan Das and Satya Narayan Das have been recorded as thika tenants in the premises under the Kolkata Thika Tenancy Act. Appellant admits his prayer for striking out their names as thika tenants had been unsuccessful. The said decision has not been assailed before the appropriate forum.

7. On the other hand, appellant has taken a circuitous route to seek cancellation of the new assessee number issued with regard to the thika tenancy by the respondent-Corporation. Corporation had issued the new assessee number in view of the intimation from the Controller with regard to the thika tenancy. Until and unless the said tenancy is cancelled in accordance with law, there is no scope of cancellation of the assessee number.

8. Appellant has referred to ***Rajendra Kumar Majumdar Vs. Kolkata Municipal Corporation & Ors.***[1] In the said case, a Co-ordinate Bench of this Court cancelled the mutation made in favour of a daughter-in-law of a predeceased son of the original assessee. The Bench held no document had been filed to show the right of the daughter-in-law to the shop room had crystallised in exclusion of other heirs. In the present

[1] 2008 SCC OnLine Cal 298 : (2008) 2 CHN 905

case, the assessee number issued on intimation from the Controller with regard to the thika tenancy in favour of Deb Narayan Das and Satya Narayan Das. Appellant had unsuccessfully attempted to cancel their tenancy. Having failed to do so, he is seeking to rake up the same issue through a prayer for cancellation of the assessee number issued in their favour by the Corporation which is wholly unsustainable in law.

9. Accordingly, the appeal and the connected application are dismissed.

10. There shall be no order as to costs.

11. Photostat certified copy of this judgment, if applied for, be given to the parties on compliance of all formalities.

I agree.

(Gaurang Kanth, J.) **(Joymalya Bagchi, J.)**

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