

21.02.2024.

PB

Sl. No.5.

Ct. No.04.

C.O. No.1603 of 2018

The Kolkata Municipal Corporation

Vs

Smt. Meenakshi Agarwal

Mr. Alak Kr. Ghosh,

Mr. Swapan Kr. Debnath.

.....for the petitioner.

Affidavit of service is on record from which it is apparent that service has been effected upon the opposite party. An order of stay is operating since July 17, 2018 whereby and whereunder the impugned order dated 30th March, 2017 passed in Municipal Appeal No.1828 of 2012 was stayed and stands extended till the disposal of this revisional application. In the process of mutation of her name for the flat in question bearing No.11-018-15-0074-8, a notice proposing the amount of assessment of annual valuation of the said flat with effect from 2nd quarter of 2008-09 was issued. Under the said notice, a proposal was made for fixing the annual valuation of the said flat and car parking space at Rs.36,670/- on the basis of rent considered reasonable @ Rs.2.75 per sq.ft. per month and Rs.1/- per sq.ft. per month for the open car parking space.

Being aggrieved by such proposal, the opposite party made an objection which was considered by the Hearing Officer, who considered the proposal to be valid and determined the annual valuation accordingly. The decision of the Hearing Officer was taken up in appeal being MAA No.1828 of 2012 under Section 189(5) of the Kolkata Municipal Corporation Act. The appellate forum has reduced the annual valuation to be Rs.1.40 sq.ft per month for the flat and Rs.0.70 per sq.ft. per month for the open car parking space, for the period in question.

The present revision has been filed under Article 227 of the Constitution of India alleging illegal exercise of jurisdiction by the appellate Tribunal which has proceeded to decrease the determination of annual valuation without there being any basis for the same and simply relying upon determination made in another appeal namely, MAA No.1828 of 2012 so as to dispose of the matter.

It is submitted that from bare perusal of the order, it is obvious that the same is without any basis and does not assign any reason or show any application of mind so as to reflect determination of the issue based on any legally recognized parameters. Lastly, it is submitted that the determination simply relying on decision in MAA No.1828 of 2012 is

unsustainable on account of the fact that the order passed in MAA No.1828 of 2012 has already been interfered with by this Court in the proceeding arising out of C.O. No.1868 of 2018. Relevant extract of the order passed in C.O.3368 of 2016 is considered by this Court to be reproduced:

“In the present case the order of the Tribunal demonstrates flagrant violation of its statutory obligation. The High Court, therefore, in exercise of its jurisdiction under Article 227 of the Constitution of India for keeping the subordinate Courts and Tribunals within the bound of their jurisdiction must interfere with such kind of orders particularly when such order is being passed by a quasi judicial authority.

That apart the order under challenge, supplies no reason to modify the order of the hearing officer. The requirement of recording adequate reason by a quasi judicial authority is must. In this context it is profitable to quote paragraph 47(n) of the decision of the Hon’ble Apex Court in the case of **KRANTI ASSOCIATES PRIVATE LIMITED AND OTHER - Versus- MASOOD AHMED KHAN AND OTHERS** reported in **(2010) 9 Supreme Court Cases 496**.

“(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in

decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence.”

In view of the discussion made above the order impugned is set aside. The Municipal Assessment Tribunal 2nd Bench, Kolkata Municipal Corporation is directed to decide the M.A. Appeal No. 1819 of 2012 afresh in strict compliance of the provisions of the said Act and the said Rule.

C.O. 3368 of 2017 is allowed. There will be no order as to costs...”

The Court finds that the very basis for the determination by the Tribunal, being the order passed in MAA No.1819 of 2012 having been set aside, the determination in the impugned order dated 30th March, 2017 is left without any basis whatsoever and is unsustainable on this ground alone, apart from the fact that the manner in which the Tribunal has exercise its jurisdiction demonstrate flagrant violation of the statutory obligation to determine the annual valuation with reference to any relevant parameters. The order dated 30th March, 2017 passed in MAA No.1828 of 2012 is set aside.

The application being C.O. No.1603 of 2018 is allowed.

The Municipal Assessment Tribunal, Kolkata Municipal Corporation is directed to decide the M.A. Appeal No. 1819 of 2012 afresh in strict compliance of the provisions of the said Act and the said Rule.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Madhuresh Prasad, J.)