01.03.2024

Court : **04**
Item : **06**
Matter : **CO**
Status : **DO**
Bench ID : **266175**
Transcriber : **NANDY**

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 1609 of 2018

The Kolkata Municipal Corporation
Vs.
Maya Devi Agarwal

Mr. Alak Kumar Ghosh, Advocate
Mr. Swapan Kumar Debnath, Advocate
……for the Petitioner/KMC

1. The opposite party in spite of due service of notice, as apparent from the earlier order dated 27.11.2018, has not been appearing on the dates, thereafter including today.
2. After purchasing the flat bearing no. 9D, on the 9th floor of the building at the premises no. 9A, Jatindra Mohan Avenue, Kolkata, the opposite party applied for mutation for her name. The same was allowed and a notice proposing the amount of assessment of annual valuation of the said flat with effect from second quarter of 2008-09 was served on the opposite party.
3. The Opposite Party objected to the same and she was afforded a hearing, whereafter the Hearing Officer of the Municipal Corporation, under order dated 16.02.2012 fixed the annual valuation of the said flat and car parking space at Rs.27,020/- for the period in question. The determination was based on rent considered reasonable at Rs.2.75/- per sq.ft. per month for the flat and Rs.1.00/- per sq.ft. per month for the open car parking space.
4. The said determination was found to be excessive by the opposite party who moved the Tribunal of the petitioner/Corporation. MAA 1819 of 2012 was

filed by the opposite party and the Tribunal in this proceeding allowed the appeal in part modifying the order of the Hearing Officer. The valuation was reduced, and the annual valuation was fixed at Rs.14,030/- for the period in question based on rent considered reasonable at the rate of Rs.1.40/- per sq.ft. for the flat and Rs.0.70/- for the open car parking space. The annual valuation was thus reduced to Rs.14,030/-.

5. The determination by the Tribunal is assailed by the petitioner/Corporation by way of this instant proceeding wherein it is submitted that without taking into consideration any relevant parameter for determination of valuation, the Tribunal solely relying upon its earlier direction in MAA 1819 of 2012 has proceeded to decrease the assessment as determined by the Hearing Officer. The determination in MAA 1819 of 2012 has since been set aside by this Court in the proceeding arising out of CO 3368 of 2017.

6. It is submitted that it is a gross case of flagrant violation of the statutory jurisdiction by the Tribunal and the order is without assigning reason in support of the conclusion.

7. Upon going through the order of the Tribunal, the Court finds that considering the determination in MAA 1819 of 2012, the Tribunal has proceeded to interfere with the determination of the Hearing Officer that also to the detriment of the petitioner/Corporation. The said determination having been set aside by this Court in the proceedings noted above, there is no other material or reason on record to sustain the decision of the

Tribunal. The Tribunal failed to exercise its jurisdiction as per the statutory mandate and has not taken into consideration any of the relevant parameters such as location of the premises, age and quality of structure, its occupancy etc.. Even otherwise the determination is without assigning any reason and not based on any other materials in support of the conclusion and on this ground also, is unsustainable having regard to the decision of the Hon'ble Apex Court in the case of ***Kranti Associates Private Limited & Anr. Vs. Masood Ahmed Khan & Ors.,*** reported in ***(2010) 9 SCC 496.***

8. This Court, therefore, would set aside the determination of the annual valuation by the Tribunal in MAA 1848 of 2012 vide order dated 13.04.2017. The matter is remanded to the Tribunal for consideration afresh. The same to be done after due notice and strictly in accordance with statutory requirement and in accordance with law.

9. Accordingly, the revisional application stands allowed.

10. **CO 1609 of 2018** is **disposed of**.

(Madhuresh Prasad, J.)