Sl. No.02.
25.09.2024
Suman
Ct. 15

WPA 14889 of 2024
Kaushik Properties Pvt. Ltd.
Vs.
The Kolkata Municipal Corporation and Ors.

Mr. Surya Prasad Chattopadhyay
Mr. Satyaranjan Kundu
Mr. Arjun Samanta
Sk. Seal
...for the petitioner

Ms. Piyali Sengupta
Ms. Paroma Sengupta
..for KMC

The petitioner challenges a notice of attachment dated September 21, 2023, issued by the Kolkata Municipal Corporation concerning premises No. 3B, Mandeville Gardens, Kolkata-700019, for alleged outstanding dues amounting to Rs.4,77,08,652 (Rupees Four Crore Seventy-Seven Lakh Eight Thousand Six Hundred Fifty-Two) as property tax.

The petitioner asserts that the annual valuation of the property was revised retrospectively without any prior notice. It claims ownership of the aforementioned premises.

The learned advocate representing the petitioner further submits that, following the notice of rent attachment, a sum of Rs.17,19,250 (Rupees Seventeen Lakh Nineteen Thousand Two Hundred Fifty) paid by the lessee of the premises per month to the petitioner has been attached by the Corporation.

The petitioner seeks to set aside the annual valuation and contends that, due to the rent attachment, he is unable to pay his monthly installment to Life Insurance Housing Finance Limited, to whom the property is mortgaged. He also draws the Court's attention to an auction notice issued under Section 13(2) of the SARFAESI Act by Life Insurance Housing Finance Limited.

Per contra, the learned advocate representing the Corporation argues that the revision of the annual valuation was conducted only after proper notice to the petitioner. The petitioner, having chosen not to appear before the authority, prompted the Corporation to reassess the annual valuation ex parte. The Corporation issued a notice of demand following prior to the rent attachment notice dated September 21, 2023, due to the petitioner's deliberate failure to pay property tax according to the assessed valuation.

However, this Court is of the view that the petitioner should be granted a further opportunity for a hearing before the Kolkata Municipal Corporation regarding the revision of the annual valuation of the property in the interest of justice.

In view of the foregoing, this writ petition is disposed of with the following directives:

1. The lessee of the premises shall remit Rs.9,00,000 (Rupees Nine Lakh) per month to the Corporation to address the outstanding property tax from the monthly rent and remaining monthly rental shall be paid to the petitioner. The Corporation shall continue to keep the money in the suspense account.

2. The Corporation shall issue a fresh notice for assessment under Sections 184 and 185 of the Kolkata Municipal Corporation Act, 1980, and make the assessment after hearing the petitioner within three months from date.

3. The current arrangement shall remain in effect until the Corporation completes the reassessment.

4. Based on the outcome of the hearing, the Corporation shall revise its demand after adjudicating the amount deposited in its suspense account.

Accordingly, **WPA 14889 of 2024** is disposed of.

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

(Kausik Chanda, J.)