

3rd April, 2024
(D/L No.17)
(SKB)

C.O.3349 of 2018

The Kolkata Municipal Corporation
Versus
Mr. Dipak Chatterjee

Mr. Alok Kumar Ghosh,
Mr. Swapan Kumar Debnath
... for the petitioner.

Mr. Wasim Ahmed,
Mr. Naoman Ahmed
... for the opposite party.

1. In this revisional application as filed under Article 227 of the Constitution of India, the order dated April 25, 2016 as passed by the Municipal Assessment Tribunal, Kolkata Municipal Corporation, 2nd Bench, in M.A.A. No.2107 of 2012 has been assailed on behalf of the Kolkata Municipal Corporation (hereinafter referred to as the 'KMC') being the revisionist.
2. In support of the instant revisional application, Mr. Ghosh, learned counsel appearing for the KMC/revisionist draws attention to this court to the certified copy of the impugned order. It is argued that on a cursory look of the impugned order, it would reveal that the said Tribunal while allowing the said appeal as preferred by the present opposite party did not assign any reason as to how the said Tribunal fixed R.R. of the premises-in-question @

Rs.1.80p. per sq.ft. for the covered area w.e.f. 3rd quarter of 2011-2012. It is further argued by the learned counsel for the KMC/revisionist that the R.R. @ Rs.0.75p. per sq.ft. for the covered area w.e.f. 1st quarter of 2002-2003 as mentioned in the impugned judgment is in respect of an old building and there cannot be any parity while fixing R.R. in respect of the said premises and the premises-in-question. According to him, since the impugned order is absolutely non-speaking one, the same may be set aside by allowing the instant revisional application.

3. Per contra, Mr. Ahmed, learned counsel for the opposite party, in course of his submission, draws attention to this court to the provision of Section 189(10A) of the Kolkata Municipal Act, 1980 (hereinafter referred to as the 'said Act'). It is submitted that, in the event, the Municipal Commissioner and/or the KMC authority felt aggrieved with the impugned order, they could have filed a petition for review under Section 189(10A) of the said Act and in not doing so, a valuable right has accrued in favour of the present opposite party and further a long delay has been caused in filing the instant revisional application, which may not be condoned.

4. It is further submitted by learned counsel for the opposite party that the Tribunal while passing the impugned order, duly discussed as to how he fixed the R.R. of the premises-in-question and, thus, there may be a very little scope to interfere with the impugned order.
5. On perusal of the entire materials as placed before this court including the certified copy of the impugned order and after hearing the learned counsel for the contending parties, it appears to this court that the provision of Section 189(10A) of the said Act does not take away the plenary power of the High Court in exercising its jurisdiction under Article 227 of the Constitution of India.
6. So far as the legality and propriety of the impugned order is concerned, it appears to this court that the said Tribunal while disposing the said appeal being M.A.A.2107 of 2012 came to a finding that the premises-in-question is situated in the same postal zone where the premises no.6/3E, Pan Bagan Lane, Ward No.54, Kolkata-700014 (hereinafter referred to as the 'said premises') is situated and of which R.R. was fixed @ Rs.0.75p. per sq.ft. for covered area w.e.f. 1st quarter of 2002-2003.
7. In considered view of this court, since the premises-in-question and the said premises are situated in the

same ward and in the same postal area, that cannot be the sole criteria to come to a conclusion that the R.R. as has been fixed in respect of the said premises and the premises-in-question must be same, since fixation of R.R. in respect of two premises may vary on account of its location, on account of the age of construction, on account of difference of facilities available in respect of the aforesaid two premises and many others features.

8. In view of the discussions made hereinabove, this court is constrained to hold that the order impugned as passed by the said Tribunal in M.A.A.2107 of 2012 is totally non-speaking and unreasoned order and, thus, the said cannot be sustained.
9. Accordingly, while allowing the instant revisional application and while setting aside the impugned order dated April 25, 2016 as passed in M.A.A.2107 of 2012 by the Municipal Assessment Tribunal, the Kolkata Municipal Corporation, 2nd Bench, this court remands the matter before the aforesaid Tribunal to hear out the said appeal afresh and conclude the hearing of the said appeal within three months from the date of communication of this order and shall thereafter pass a reasoned judgment in the said appeal.

10. In order to avoid any further delay, this court further directs both the parties i.e. the K.M.C. and the opposite party i.e. Sri Dipak Chatterjee of 14, Gostho Behari Mukhopadhyay Sarani, Ward No.54, Flat No.304, 3rd Floor, Kolkata-700014 to appear before the said Tribunal either in person or through their learned counsels positively on 18th April, 2024.
11. Both the parties as well as the Tribunal are directed to act on the server copy of this order.
12. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)