**15.07.2024**
**Sl.20.**
**Suman**
**Ct.No.15**

**WPA 22775 of 2023**
**With**
**CAN 1 of 2024**

**VVF (India) Limited**
**Vs.**
**The Kolkata Municipal Corporation and Ors.**

Mr. Abhratosh Majumder, Sr. Adv.
Mr. Sayan Sinha
Mr. Nilanjan Bhattacharya
..for the petitioner

Mr. Srijan Nayek
Ms. Tanushree Dasgupta
..for KMC

Let the report filed by the Corporation be kept with the records.

In this writ petition an order dated August 9, 2023, passed by the Municipal Commissioner, Kolkata Municipal Corporation has been challenged whereby the Municipal Commissioner declined to mutate the assessment records in favour of the petitioner and requested the petitioner to move before the competent civil court for declaration of its title and interest in the property.

The dispute in this writ petition centers on the property located at 7, Tiljala Road, P.S. Tiljala, Kolkata-700039. Initially, the Corporation by a notice dated January 11, 1978, assessed the said property at an annual valuation of Rs.57,199/- against its owner, Calcutta Chemical Co. Ltd.

It is the case of the petitioner that Calcutta Chemical Co. Ltd. changed its name to Henkel India Ltd., and the petitioner purchased the said property along with its assets, liabilities and workers, from Henkel India Ltd. on December 21, 2009.

The Kolkata Municipal Corporation continued to issue property tax receipts in favour of the erstwhile owner, Calcutta Chemical Co. Ltd. till the year 2014-2015.

Following the purchase on July 8, 2014, the petitioner applied for mutation of the assessment records to reflect its ownership. The Corporation on May 16, 2016, issued property tax bill mentioning the property owner as Kolkata Municipal Corporation and Calcutta Chemical Co. Ltd. as the occupier of the said premises. The petitioner sought for information under the Right to Information Act, 2005 regarding change in the owner’s name on the property tax receipts but no response was received from the Corporation.

The petitioner approached this Court through WPA 11820 of 2021, for mutation of the assessment records in its favour. The said writ petition was disposed of by a Co-ordinate Bench of this Court with a direction upon the Commissioner, Kolkata Municipal Corporation to consider the case of the petitioner in accordance with law after giving an opportunity of hearing to the necessary parties and to pass a reasoned order after taking into consideration all the documents and facts placed before the authority.

In compliance of the said order, the order impugned dated August 9, 2023, was passed.

The Corporation submits before this Court that the property in question is recorded in the list of inventory of immovable properties prepared under Section 540(2) of the Kolkata Municipal Corporation Act, 1980 and has been appearing in the list of immovable properties since 2007-08 financial year.

It has further been submitted that inclusion of the property in the list of inventory of immovable properties suggests that it is owned by the Corporation. The petitioner's right, title and interest in the property is questionable, and therefore, no order of mutation can be passed in favour of the petitioner.

A bare perusal of the impugned order dated October 9, 2023, goes to suggest that an acquisition proceeding was initiated in respect of the relevant premises by LA Case No.D-4 of 1969-70 and a notice for declaration of acquisition under Section 6 of the Land Acquisition Act, 1894, was published on January 15, 1969, for the purpose of extension of the factory of

M/s. Calcutta Chemical Co. Ltd. The said acquisition was not completed and was withdrawn from the acquisition procedure as per request of the Requiring Body in terms of section 48 of the Land Acquisition Act, 1894. The withdrawal notification was published on October 4, 1973. Though the said property was in the inventory list since 2007 onwards, but nothing was produced before the Municipal Commissioner to demonstrate how the said property was included in the inventory list. The inventory list prepared prior to 2007 could not be produced before the Commissioner.

In the aforesaid factual backdrop, the Commissioner in his impugned order observed as follows:-

> "*It is astonishing as to way the petitioner has come to KMC or Hon'ble Court after lapse of such long time. It might give rise to a suspicion of connivance and purposeful loss of documents against public interest. It would set a very wrong precedent if a property is taken off from KMC in favour of private party after such long period on mere ground of non production of records. It is a settled law that one has to be alive to high rights and claim that in time and not beyond limitation period. This case would require proper enquiry and adjudication before a competent civil court.*
>
> *Hence, it is*
>
> ***Ordered***
>
> *That the matter to be processed on the basis of title declaration to be ascertained from the competent civil court of law where the said court holds the competency in respect of declaration of the said property. Hence, the matter dispose of with a request to the writ petitioner to move*

> *before the competent civil court of law having competent jurisdiction for declaration of title in the property."*

I am unable to sustain the order of the Municipal Commissioner. The petitioner purchased the property in the year 2009. Thereafter, the petitioner from its own fund went on paying tax in the name of Calcutta Chemical Co. Ltd. The Corporation issued a trade licence in favour of the petitioner to run the factory and it is not in dispute that the petitioner has been running the factory from the premises after obtaining due clearance from all concerned authorities. Before the Corporation, no one disputed the title of the petitioner over the property in question. Only an inventory list without any supporting documents was relied upon to deny the title of the petitioner. I have already noted that the acquisition proceedings initiated against the relevant property were dropped.

In the aforesaid facts, it cannot be denied that the petitioner has been operating the factory from the aforesaid premises, and, therefore, the Municipal Commissioner should have recorded the name of the petitioner in the relevant assessment records, at least, as "the person liable to pay tax".

It has been submitted by the petitioner that it will use the premises for operating the factory only.

It will be open for the petitioner to initiate appropriate proceedings to challenge the relevant inventory list and for declaration of its right, title and interest in relation to the relevant property.

In the aforesaid facts, I dispose of this writ petition by modifying the order dated August 9, 2023 with a direction upon the Corporation to mutate the name of the petitioner as “the person liable to pay tax” in respect of the relevant property.

With the above observations, **WPA 22775 of 2023** along with **CAN 1 of 2024** is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

**(Kausik Chanda, J.)**