

15.07.2024
Sl. No.11
Ct. 15
SA

WPA 24740 of 2022

Santosh Bhusan Nandy
- vs -
Kolkata Municipal Corporation & Ors.

Mr. Mrinal Kanti Ghosh
...for the petitioner
Ms. Sanjukta Samanta
... For the State

The petitioner (Santosh Bhusan Nandy) challenges the mutation of the relevant assessment records in favour of respondent no.5 (Sukumar Bhusan Nandy). Respondent no.5 is brother of the petitioner.

The Corporation is not represented.

The relevant parts of the impugned order dated August 18, 2022, for mutation of records in favour of respondent no.5 are quoted below :

“It was not proper for the Corporation to incorporate the name of the private respondent, that is Sukumar as owner of the property in the absence of an order being passed in his favour by the Ld. Court in the Suit that is pending, or in the Suit already decreed in his favour. The Title Suit filed by the petitioner, that is Santosh claiming ownership of the property is pending consideration. Name of Santosh already appeared in the tax bills raised by the Kolkata Municipal Corporation. Prior to making any changes in the said

records, an opportunity of hearing ought to have been given to the petition...

It is settled law that recording name in the rate card is a mere indication of the person liable to pay tax and the same neither confers nor extinguishes title of any person who claims to be the owner of the property. The Corporation ought not to enter into the issue of title but ought to limit its action only with regard to collection of tax from the person liable to pay tax.

Hence, it is ordered that the status of Sukumar Bhusan Nandy in respect of Assessee No. 11-053-18-0302-4 in premises no. 47A, Surendra Nath Banerjee Road be changed from Recorded Owner to “Person Liable to Pay Tax”. On the question of ownership/title of the property, KMC will abide by the decision of the Ld. Civil Court and/or the Hon’bled High Court, as the case may be.”

I do not see any reason to interfere with the findings of the relevant Assessor Collector.

Needless to mention that the mutation of the records, following the impugned order, shall abide by the outcome of the pending Civil Suit between the parties.

Accordingly, **WPA 24740 of 2022** is dismissed.

(Kausik Chanda, J.)

