

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

**MAT 2012 of 2024
With
IA No.: CAN 1 of 2024
With
IA No.: CAN 2 of 2024**

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

For the appellant	:Mr. Abhratosh Majumdar, Ld. Sr. Advocate Mr. Sayan Sinha, Advocate Mr. Deepak Kumar Basu, Advocate Mr. Nilanjan Bhattacharya, Advocate
For the Kolkata Municipal Corporation	:Mr. Sandipan Banerjee, Advocate Mr. Pinaki Ranjan Chakraborti, Advocate Ms. Tanushree Dasgupta, Advocate

Heard & Judgment on : November 20, 2024

DEBANGSU BASAK, J.:-

1. IA No.: CAN 1 of 2024 is an application seeking condonation of delay in making and filing the appeal.
2. Department reports delay of 34 days.

3. Considering the averments made in the application for condonation of delay and for the ends of justice, we deem it appropriate to condone the delay in making and filing the appeal.
4. **IA No.: CAN 1 of 2024** is disposed of.
5. Appeal is at the behest of the writ petitioner and is directed against a portion of the order dated July 15, 2024 passed in WPA 22775 of 2023.
6. Learned Senior Advocate appearing for the appellant submits that, appellant approached the Writ Court with relief to record the appellant as the occupier and owner of the particular immovable property in the city of Kolkata. He submits that, the learned Single Judge by the impugned order allowed the appellant to be recorded as the occupier of the immovable property concerned. However, learned Single Judge did not grant relief with regard to the inventory list that was relied upon on behalf of the Kolkata Municipal Corporation in the proceedings.
7. Learned Senior Advocate appearing for the appellant submits that, appellant approached the Corporation for mutation in relation to Premises no.7, Tiljala Road, Kolkata-700039. Corporation not acting on such request, appellant filed a writ petition being WPA 11820 of 2021 which was disposed of by an order dated May 17, 2023 requiring the Municipal Commissioner to take a decision with regard to the application for mutation.
8. Learned Senior Advocate appearing for the appellant submits that, the Municipal Commissioner decided the issue by the order dated June 22,

2023. The Municipal Commissioner held that, declaration of title by a Civil Court was required. He submits that, in the records of the Kolkata Municipal Corporation, Kolkata Municipal Corporation was noted as the owner of Premises No.7, Tiljala Road, Kolkata-700039. Such noting was on the basis of an inventory list. There was no document of title in favour of the Kolkata Municipal Corporation. Consequently, according to him, Municipal Commissioner erred in granting the relief of mutation to the appellant.

9. Learned Senior Advocate appearing for the appellant relies upon **(2020) 9 Supreme Court Cases 356 (Hari Krishna Mandir Trust vs. State of Maharashtra and Others)** and submits that, action of a statutory authority in unilaterally including its name in its records was frowned upon. He submits that, in similar circumstances, the Court granted relief with regard to an entry made by the Pune Municipal Corporation.
10. Learned Senior Advocate appearing for the appellant submits that, in the column of owner as appearing in the Municipal Assessment Book in respect of Premises No.7, Tiljala Road, Kolkata-700039, the name of the appellant of Kolkata Municipal Corporation should be deleted and that, name of the appellant should be inserted.
11. Learned Advocate appearing for the Kolkata Municipal Corporation submits that, the insertion of the name of the Kolkata Municipal Corporation in the column of the owner in the Municipal Assessment Book was made on the basis of the inventory list prepared. He submits

that, a Writ Court cannot declare title in respect of the immovable property. Therefore, the learned Single Judge rightly directed the appellant to be treated as the occupier and the person principally liable to pay municipal rates and taxes in respect of such property while not granting any relief with regard to the ownership column.

12. Learned Advocate appearing for the Kolkata Municipal Corporation points out that, the appellant although being aware of the inventory list of the Kolkata Municipal Corporation did not challenge the same in the writ petition. Consequently, he submits that, the appellant is not entitled any relief with regard to the inventory list.
13. Disputes with regard to mutation in respect of Premises No.7, Tiljala Road, Kolkata-700039 received consideration of the High Court earlier in the writ petition being WPA 11820 of 2021 which was disposed of by an order dated May 17, 2023.
14. By such order dated May 17, 2023, the Commissioner, Kolkata Municipal Corporation was directed to consider the case of the appellant in accordance with law after giving reasonable opportunity of hearing to the necessary parties and to pass a reasoned order after taking into consideration all documents and facts placed before such authority.
15. Municipal Commissioner acting in terms of such order passed an order dated August 9, 2023. Municipal Commissioner found that, there were disputes with regard to the title to the immovable property. He found that, the name of the Kolkata Municipal Corporation was inserted in the

Municipal Assessment Book on the basis of the inventory list. Therefore, by his order dated August 9, 2023, he disposed of the request of the appellant for mutation to move the competent Civil Court for declaration of the title to the property.

16. Being aggrieved by such decision of the Municipal Commissioner dated August 9, 2023, appellant preferred the writ petition which resulted in the impugned order dated July 15, 2024.
17. By the impugned order, the learned Single Judge found that, the appellant was operating a factory from such premises. Learned Single Judge, therefore, held that, the Municipal Commissioner was required to record the name of the appellant in the Municipal Assessment Register Book as 'the person liable to pay tax'.
18. So far as the relief with regard to the recording the name of the appellant as the owner in the municipal assessment record is concerned, learned Single Judge allowed the appellant to initiate appropriate proceedings to challenge the relevant inventory list and for declaration of its right, title and interest in respect of the property concerned.
19. That the appellant is occupying the premises concerned and running a factory therein is admitted. It is also admitted that, the appellant is the person principally liable to pay the municipal rates and taxes in respect of the property concerned.
20. Any municipal assessment book of the Kolkata Municipal Corporation in respect of any premises contains amongst other two columns which

differentiate between an occupier and an owner. In the present case, the relevant Municipal Assessment Register Book contains the name of Kolkata Municipal Corporation in the column of owner.

21. In ***Hari Krishna Mandir Trust (supra)***, Supreme Court noted that, Pune Municipal Corporation where that subject property was situate all of a sudden was shown as the owner of the immovable property in complete disregard to all records. In such circumstances, the Supreme Court held that, the factum of entering the name by the Pune Municipal Corporation without any documents was erroneous.
22. In course of hearing of the appeal, we requested the learned Advocate for the Kolkata Municipal Corporation to produce before us any document to establish the basis for Kolkata Municipal Corporation to be recorded as the owner in the Municipal Assessment Register Book. Learned Advocate appearing for the Kolkata Municipal Corporation submits that, apart from the inventory list, there are no documents in support of such claim of Kolkata Municipal Corporation at present.
23. Inventory list and the Municipal Assessment Book apparently were prepared unilaterally by the Kolkata Municipal Corporation.
24. In such circumstances, it would be appropriate to direct Kolkata Municipal Corporation to delete its name from the column of 'owner' in the Municipal Assessment Register Book relating to Premises No.7, Tiljala Road, Kolkata-700039 in terms of ***Hari Krishna Mandir Trust (supra)***.

25. Kolkata Municipal Corporation will continue to treat the appellant before us as the 'occupier' of the subject premises and as the 'person principally liable to pay all municipal rates and taxes' in respect of such premises.
26. Kolkata Municipal Corporation will enter the name of the owner of the property concerned only on receipt of an order to such effect passed by a competent Civil Court possessing jurisdiction over the subject premises.
27. We clarify that, we did not decide any right, title and interest of any of the parties to the proceedings including that of the appellant and the Kolkata Municipal Corporation. Our direction to delete the name of the Kolkata Municipal Corporation from the column of 'owner' of the Municipal Assessment Register Book does not reflect on the right, title and interest of Kolkata Municipal Corporation in respect of such property or the lack of it. Such issue is left upon to be decided by a competent Civil Court if so approached.
28. **MAT 2012 of 2024** and **IA No.: CAN 2 of 2024** are disposed of accordingly without any order as to costs.

(Debangsu Basak, J.)

29. I agree.

(Md. Shabbar Rashidi, J.)