

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO/5/2020
[WITH WPO/298/2012]
SMT. SAKUNTALA DEBI HARLALKA AND ORS.
VS
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:

The Hon'ble JUSTICE ARIJIT BANERJEE
The Hon'ble JUSTICE APURBA SINHA RAY
Date : 8th January, 2024.

Appearance:
Mr. D.S. Mallick, Adv.
Mr. Dipak Das , Adv.
For appellants
Mr. Biswajit Mukherjee, Adv.
Mr. Debangshu Mondal, Adv.
Ms. Manisha Nath, Adv.
...For KMC.

The Court:- This appeal is directed against a judgment and order dated December 13, 2019, whereby the writ petition of the appellants/their predecessors-in-interest, being WPO/298/2012 was dismissed by a learned Judge of this Court.

The writ petition was filed by the appellants/their predecessors-in-interest assailing an order of a Hearing Officer of KMC assessing property tax in respect of the premises in question. Such assessment order was passed on April 9, 2007.

It appears that the appellants herein/their predecessors-in-interest preferred a statutory appeal against the order of the Hearing

Officer before the Municipal Assessment Tribunal in the year 2007. However, they did not offer the pre-deposit that is statutorily required to be paid in terms of section 189(6) of the KMC Act, 1980. Accordingly, the appeal naturally abated.

After 5 years, in 2012, the appellants approached a learned single Judge of this Court by filing WPO/298/2012 challenging the order of the Hearing Officer. On May 16, 2012, at the admission stage itself, the writ petition was dismissed on the ground of availability of alternative remedy of statutory appeal. Such dismissal order was carried in appeal being APO/467/2012. By a judgment and order dated July 29, 2013, a co-ordinate Bench of this Court remanded the matter back to the learned single Judge for deciding the correctness of the assessment made by the Hearing Officer. Pursuant to such remand, the writ petition was heard afresh and by the order dated December 13, 2019, impugned in this appeal, the writ petition was dismissed. Hence this appeal at the instance of the writ petitioners.

At the outset, we notice that the writ petitioners did not appear before the learned single Judge on the day the matter was disposed of. Hence, we are not inclined to interfere with the order. We do not see any reason to entertain an appeal at the instance of a party who chose to stay away from the proceeding before the learned single Judge.

Learned Advocate for the appellants says that there was sufficient reason for the writ petitioners being not represented before the

learned single Judge. We are not interested in knowing what the sufficient cause was. We refuse to entertain this appeal and dismiss the same without adjudicating the merits of the matter.

This will not prevent the appellants from approaching learned single Judge with an appropriate application, if they are entitled to do so in law.

Mr. Mukherjee, learned Counsel appearing for KMC says that KMC should be at liberty to recover the arrear dues in accordance with law. Since there is no order of any competent forum restraining the KMC from doing so, KMC would be at liberty to do so in accordance with law.

The appeal and the connected application are accordingly disposed of.

(ARIJIT BANERJEE, J)

(APURBA SINHA RAY, J.)

dg/