

OD-8

ORDER SHEET

WPO No.63 of 2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

M/S. HOTEL SAMRAT & ANR.

-Versus-

THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 21st February, 2024.

Appearance:

Mr. Ranjit Chatterjee, Adv.

Mr. Javed K. Sanwarwala, Adv.

Mr. Shariq A. Sanwarwala, Adv.

...for Petitioners.

Mr. Kushal Chatterjee, Adv.

Mr. Mohan Lal Banerjee, Adv.

Mr. Oishik Chatterjee, Adv.

...for private Respondent.

Mr. Biswajit Mukherjee, Adv.

Mr. Gurudas Mitra, Adv.

...for KMC.

The Court:- Distress warrant issued under Section 219[1] of the Kolkata Municipal Corporation Act, 1980 in favour of the petitioner in respect of the premises no.144, Mahatma Gandhi Road, Kolkata 700 007 is impugned in the present writ petition.

Petitioners claim to be the tenants of the subject premises and the private respondent being the trustee is the owner of the premises in question. Distress warrant records that a sum of Rs.1,05,68,025/- is due and payable in respect of property tax of the said property.

Neither the owner nor the occupier takes the responsibility for clearing the dues of the Corporation.

Learned advocate representing the Corporation submits that account payee cheque drawn on the Standard Chartered Bank was submitted by one Sri Sambhunath Palit for clearing the arrear property tax of the subject premises but the same was dishonoured by the bank with the remark 'Insufficient Fund' in September, 2023.

Fact remains that a huge sum of money is due and payable on account of arrear property tax in respect of the subject property.

Learned advocate representing the landlord submits, upon instruction that, the trustee was never made aware of the arrear property tax. The landlord was under the impression that the petitioners, being the tenants, discharged the liability of payment of the property tax within the due time. It is for the first time from the writ petition that the landlord has come to learn that the aforesaid sum is due and payable on account of arrear property tax. The landlord intends to revert to the Corporation for settling the issue.

As it appears from the submissions made on behalf of the parties that there is a dispute with regard to payment of property tax between the landlord and the tenants and the landlord is agreeable to approach the Corporation for clearing the arrear property tax, accordingly, the Court is not inclined to interfere in the present writ petition.

It will be open for the parties to approach the Assessor Collector [North] of the Kolkata Municipal Corporation with their proposal.

The writ petition stands disposed of.

Affidavit of service filed in Court today is taken on record.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

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