

OD-5

ORDER SHEET
WPO No.167 of 2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SANJAY BOTHRA [HUF, KARTA]
VERSUS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 5th March, 2024.

Appearance:
Mr. Raghunath Chakraborty, Adv.
Ms. Amrita De, Adv.
...for Petitioner.

Mr. Biswajit Mukherjee, Adv.
Mr. Swapan Kumar Debnath, Adv.
...for KMC.

Mr. Avirup Mondal, Adv.
Mr. A. Z. Mondal, Adv.
...for Respondent No. 6.

The Court:- The matter relates to the premises no.59B, Chowringhee Road, Kolkata – 700020.

A distress warrant under section 219[1] of the Kolkata Municipal Corporation Act, 1980 was issued by the Inspector, Kolkata Municipal Corporation mentioning that a sum of Rs. 14,35,33,080/- is due and payable on account of property tax of the subject property.

The petitioner alleges that the men and agents of the Kolkata Municipal Corporation visited the tenanted area of the petitioner and threatened to padlock the same. The petitioner was compelled to issue a cheque of Rs.1 crore. On handing over the cheque the representatives of the Kolkata Municipal Corporation left the subject premises after obtaining an undertaking from the petitioner that he shall pay the rest amount as would be

finally assessed by the authority as per available norms and law. A Letter of Intimation dated 17.01.2024 has also been generated.

The contention of the petitioner is that the aforesaid amount and the said letter dated 17.01.2024 was submitted before the Corporation on threat of the premises being padlocked.

A complaint was lodged before the Municipal Commissioner on 02.02.2024 with a further application requesting apportionment of property tax on the fourth and sixth floors of the subject premises. Both the representations are pending consideration.

Learned advocate for the petitioner submits that no notice or opportunity of hearing was given to the petitioner prior to collecting the amount of Rs.1 crore from him.

The petitioner is in occupation of a small area of 8600 sq. ft. of the entire building which is approximately 48000 sq. ft. The petitioner ought not to be held liable to pay tax in respect of the entire premises.

Learned advocate representing the current lessee of the subject premises, i.e., Janasevak Trust submits that on account of non payment of rent from the tenants of the subject premises the Trust is not in a position to clear the property tax dues of the Corporation.

Learned advocate representing the Corporation submits, upon instruction that, as per the tenancy agreement annexed to the writ petition, the petitioner is in occupation of approximately 8600 sq. ft. and if apportioned his share of property tax will be approximately 22.98%.

On a perusal of the representation that has been filed by the petitioner, it appears that the same is not a very detailed one. All the required details are not mentioned in the representation filed by the petitioner.

Admittedly, there is huge sum of money that is due and payable to the Corporation on account of unpaid property tax in respect of the subject premises. The petitioner being the occupier of a portion of the subject premises could be made liable to pay tax only in respect of the portion which is under his possession.

In view of the above, leave is granted to the petitioner to file a comprehensive representation with details before the Kolkata Municipal Corporation. In the event such representation is filed, the same shall be considered by the Municipal Commissioner or his delegate in accordance with law after giving a reasonable opportunity of hearing to all the necessary parties.

A reasoned order shall be passed and communicated to the parties at the earliest but positively within a period of eight weeks from the date of communication of this order.

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.)