Sl. No. 18

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

HEARD ON: 14.07.2025
DELIVERED ON: 14.07.2025

PRESENT:
THE HON'BLE MR. JUSTICE GAURANG KANTH

WPA 1733 of 2025

SAJAL BHADRA

VERSUS

THE KOLKATA MUNICIPAL CORPORATION & ORS.

Appearance:-

Mr. Mainak Ganguly, Adv.
Mr. Shankar Mukherjee, Adv.

… … for the petitioner

Mr. Biswajit Mukherjee, Adv.
Mr. Debanjan Mukherjee, Adv.

… … for the KMC

JUDGMENT

Gaurang Kanth, J. :-

1. Affidavit-of-service filed in court today is taken on record.

2. The Petitioner, by way of the present writ petition, assails the legality and propriety of (i) demand notice dated 06.12.2024, (ii) letter of intimation dated 13.12.2024 and (iii) notice dated 02.01.2025 issued by the respondent-Kolkata Municipal Corporation in relation to the alleged arrears of property tax in respect of premises situated at 5B, 5th floor, 71, Park Street, Kolkata.

3. It is the specific case of the Petitioner that he had entered into a registered Deed of Assignment and Sub-Lease dated 17.12.2019, primarily for commercial exploitation of the abovementioned property. As per the terms of the said registered instrument, it was clearly agreed between the petitioner and the private respondent nos.4 and 5 that all municipal

levies and dues including property tax, accruing prior to the date of assignment i.e. 17.12.2019, would be the sole responsibility of the private respondent nos.4 and 5. The said private respondents further undertook to indemnify the petitioner against any liability arising from non-payment of such prior dues. However, on or about 14.03.2022, the Petitioner noticed that a demand of Rs.4,87,384/- had been affixed on the wall of the said premises by the respondent-Corporation. Upon making enquiries, the Petitioner came to know that the letter of intimation dated 31.01.2023 was addressed by the respondent-Corporation to respondent nos.4 and 5, whereby the outstanding amount was revised and shown to be Rs.6,76,896/-. In a bona fide attempt to resolve the issue and to avoid any disruption in his commercial activity, the Petitioner issued a demand draft of Rs .6,00,000/- dated 20.02.2023 in favour of the respondent no. 1. Receipt of such amount was duly acknowledged by the respondent no. 1 on 22.02.2023. Despite making the aforesaid payment, the Petitioner was subsequently served with a demand notice dated 06.12.2024 under Section 217(1) of the Kolkata Municipal Corporation Act, 1980, claiming a further amount of Rs.16,98,185.91/- towards outstanding property tax dues. Simultaneously, the petitioner was also provided with a letter of intimation dated 13.12.2024.

4. The Petitioner respectfully submits that, upon perusal of the said letter of intimation, it appears that the amount of Rs. 6,00,000/- already remitted by the Petitioner has not been duly adjusted against the outstanding demand, but instead has been reflected under the "Suspense Account" by the Respondent, Kolkata Municipal Corporation. The Petitioner further submits that despite his repeated attempts to facilitate a tripartite meeting between the respondent-Corporation and the private respondent nos.4 and 5, for the purpose of arriving at a resolution and proper allocation of liability, such meeting could not take place due to non-cooperation of the private respondent nos.4 and 5. Subsequently, the Petitioner has also been served with a notice for payment of alleged outstanding dues dated 02.01.2025 as well as a memorandum dated 02.01.2025, both issued to respondent

nos. 4 and 5, claiming an enhanced amount of Rs.19,13,316/- as arrears of property tax. The Petitioner, aggrieved by the repeated and escalated demands, contends that he is liable to pay property tax only from the date of execution of the Deed of Assignment and Sub-Lease i.e. dated 17.12.2019 onwards and not for any period prior thereto.

5. Learned counsel for the petitioner submits that the demand raised for the period prior to the entering of the lease deed and sub-lease, the property was in the exclusive possession and control of the private respondent nos.4 and 5. It is submitted that they are liable to pay the property tax and had, in fact, undertaken such liabilities in the lease deed. He further submits that the Petitioner has received the bifurcation of the property tax from the respondent-Kolkata Municipal Corporation and from the same, it is evident that he is not liable to pay the entire amount of property tax as demanded by the respondent-Corporation in terms of the Deed of Assignment and Sub-Lease.

6. Learned counsel for the respondent-Kolkata Municipal Corporation submits that the Petitioner has already been provided with the bifurcation of the outstanding property tax in respect of the abovementioned property. He further submits that the present writ petition is not maintainable since the assessment has not been done *qua* the Petitioner but the assessment has been done *qua* the private respondent nos.4 and 5, who have not challenged the assessment orders passed by the respondent-Corporation.

7. This Court is of the considered view that the understanding between the petitioner and the private respondent nos.4 and 5, including the clause of indemnity or allocation of tax liability, constitutes a purely private arrangement between the said parties, and the respondent-Corporation cannot be bound by such internal agreements. From the standpoint of the respondent-Kolkata Municipal Corporation, its claim pertains to recovery of legitimate property dues against the premises in question, irrespective of any internal disputes or arrangement between the past and present occupants of the said property.

8. Accordingly, if the Petitioner is aggrieved by the action or omission of the private respondent nos.4 and 5 with respect to payment of earlier dues or their failure to comply with the terms of indemnity, the Petitioner shall be at liberty to initiate appropriate civil proceedings for enforcement of such rights. However, such *inter se* disputes cannot be adjudicated upon in the present writ jurisdiction.

9. The respondent-Kolkata Municipal Corporation shall be at liberty to proceed for recovery of the outstanding dues in accordance with law, subject to the petitioner's right to dispute or contest the liability on such basis as available to him in accordance with law before the appropriate forum.

10. With the aforesaid observations, the present writ petition is disposed of.

11. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted.

12. There shall be no order as to costs.

13. Let urgent Photostat certified copy of this judgment if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)

AKD