18.06.2025
Court No.13
Item Nos.14 & 15
AP

FMA 747 of 2025
With
CAN 1 of 2025
M/s. Farinni Leather Private Limited and Anr.
Vs.
The Kolkata Municipal Corporation and Ors.

With
FMA 759 of 2025
With
CAN 1 of 2025
M/s. Farinni Leather Private Limited and Anr.
Vs.
The Kolkata Municipal Corporation and Ors.

Mr. Sandip Kumar De
Mr. Sayak Mitra
Ms. A. Sarkar

… for the Appellants.

Mr. Biswajit Mukherjee
Ms. P. Sengupta

…for the KMC.

1. The instant appeal is directed against a judgement and/or order dated 2nd April, 2025 passed by a Single Bench of this Court. By the impugned order, the Single Bench has refused to interfere with an order of the Municipal Assessment Tribunal dated 25th April, 2024 refusing to refer the subject matters of MAA 81 of 2018 and MAA 82 of 2018 to the Lok Adalat under the provisions of the Legal Services Authorities Act, 1987.

2. The Single Bench found that since there was no willingness on the part of the Kolkata Municipal Corporation (hereinafter referred to “the KMC”) to refer the matter for settlement under the Legal Services

Authorities Act of 1987, the matter cannot be referred suo motu by the Municipal Assessment Tribunal.

3. Learned counsel for the appellants would submit by reference to Section 20 (1) (ii) that where a Court is satisfied that the matter is an appropriate one to be referred the Lok Adalat, it could refer such matter to the Lok Adalat notwithstanding absence of consent of one of the parties.

4. One must however also note that Proviso to Sub-Section 2 of Section 20 which provides that a reasonable opportunity ought to be given to the objector of being heard before any decision is taken by a Court under Clause 2 of Sub-Section 1 of Section 20.

5. This Court notes that the payer for reference to the Lok Adalat may not be bona fide for the following reasons. Firstly that the appellants have had their contention tested before the first authority i.e. the Municipal Hearing Officer. The Municipal Hearing Officer has rejected the petitioners' claim. It is a pre-condition of an appeal before the Municipal Assessment Tribunal under the KMC Act that the appellants would have to pay the assessed amount by the Hearing Officer including pre-deposit of any arrears and penalty as well as interest even during the pendency of the hearing of the appeal before the Tribunal.

6. In the backdrop of the above, argument of learned counsel for the KMC Mr. Biswajit Mukherjee, that the appellants calling upon the Tribunal to so refer is an attempt to circumvent the condition of statutory pre-deposit before the Tribunal, cannot be brushed aside.

7. It is new well-settled that what cannot be done directly by the appellants can also not be done indirectly.

8. The writ petition and the appeal and the prayer before the Municipal Assessment Tribunal to refer the matter to the Lok Adalat under the Legal Services Authorities Act in the opinion of this Court is speculative and for collateral purposes.

9. In the light of the aforesaid discussions and also applying the principles laid down in the decision of ***M/s. Afcons Infrastructure Limited & Anr. Vs. Cherian Varkey Construction Company Private Limited and Ors.*** reported in ***(2010) 8 SCC 24***, this Court cannot find any fault with the impugned order. The refusal by the Municipal Assessment Tribunal to refer the appellants' case for settlement before the Lok Adalat calls for no interference.

10. Accordingly, both the appeals fail and are hereby dismissed. Consequently, all connected pending applications, if any, are also disposed of.

11. There shall be no order as to costs.

12. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)