Dd 77 **10.02.2025**
ML

MAT/813/2024
With
IA NO: CAN/2/2025

KOLKATA MUNICIPAL CORPORATION AND ORS.
VS
SMT. SARBANI GHOSH @ SARBANI PAL SINGH
AND ORS.

Ms. Piyali Sengupta,
Ms. Manisha Nath, Advocates
… … For the Appellants/ KMC

Mr. Dhiraj Trivedi, sr. adv.
Mr. Sudipta Panda,
Mr. Bikash Singh,
Ms. Shakshi Rathi,
Ms. Jayshree Kumari Jha, Advocates
… … For the respondent no. 1

1. Appeal is directed against an order dated April 22, 2024 passed in WPA 8672 of 2023.
2. By the impugned order, learned single Judge, set aside a distraint warrant and directed the padlock of the shop room to be opened.
3. Appeal is at the behest of the Kolkata Municipal Corporation.
4. In course of hearing of the appeal, we find that, private respondent/writ petitioner before us is claiming to be a tenant in respect of a designated area of the subject premises. Assessee number with regard to area under occupation of the private respondent is also in dispute.
5. Quantum of claim as against the private respondent in the appeal is Rs.12,56,512/-. Court is informed that a sum of Rs.4,80,000/- was paid by the private respondent/writ petitioner herein to the Kolkata

Municipal Corporation which is presently lying in a suspension account.

6. Kolkata Municipal Corporation Act, 1980 apportions tax liabilities between an owner and an occupier.
7. Kolkata Municipal Corporation will proceed to assess the tax liability of the private respondent herein as an occupier of the premises concerned. Kolkata Municipal Corporation will undertake actual physical valuation of the area under occupation by the writ petitoner/private respondent. It will assess tax liability of the private respondent commencing on and from 1st quarter of 2017-2018.
8. No doubt KMC authorities will afford reasonable opportunity of hearing to the stakeholders in the assessment proceedings. Notice upon the learned advocate on record for the writ petitioner/private respondent for the assessment proceeding will be construed as sufficient notice upon the private respondent/writ petitioner.
9. Since a claim in excess of 12.5 lakhs exists in respect of the property concerned and since the private respondent/writ petitioner paid a portion thereon, namely, Rs.4,80,000/-, it would be appropriate to direct the private respondent/writ petitioner to pay a further sum of Rs.7,00,000/- in four equal monthly installments commencing from March 15, 2025 and the subsequent installments to be paid by the 15th of each month.
10. Assessment proceeding as directed be concluded within six weeks from the date of communication of this order to the municipal authorities.
11. It is clarified that we did not enter into the merits of the contentions of the rival parties. All points raised by the writ petitioner/private respondent with

regard to the assessment as well as KMC are kept open.

12. Writ petitioner/private respondent is at liberty to assail the order of assessment before the appropriate forum, in accordance with law, if aggrieved by the order.
13. Kolkata Municipal Corporation authorities on completion of the assessment proceeding will give credit to the payments already made and the payment that will be made by the writ petitioner/private respondent in terms of this order towards pro tanto satisfaction of the tax liability, as occupier of the premises concerned. Writ petitioner/private respondent is at liberty adjust rent, if any payable to the landlord, if the writ petitioner/private respondent is of the view that it paid in excess of its liability on behalf of the landlord. Writ petitioner/private respondent will do so upon notice to the landlord.
14. We clarify that we have decided upon the *inter se* liability, if any, between the writ petitioner/private respondent and its landlord.
15. Impugned order is modified to the extent.
16. MAT/813/2024 along with connected applications are disposed of without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)