Form No. J (2)

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Md. Shabbar Rashidi

MAT 1098 of 2016

The Kolkata Municipal Corporation & Ors.
vs.
Sundeep Chadha & Ors.

For the Appellants/ KMC	:	Mr. Biswajit Mukherjee, Advocate Mr. S. K. Debnath, Advocate
For the Respondents	:	Mrs. Koyeli Bhattacharyya. Advocate
Heard on	:	11.02.2025
Judgment on	:	11.02.2025

DEBANGSU BASAK, J.:-

1. Appeal is at the behest of the Kolkata Municipal Corporation and directed against order dated January 19, 2016 passed in W.P. 21659 (W) of 2015.

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2. Learned advocate appearing for the appellants submits that, learned Single Judge directed appeal to be filed by the writ petitioners before the Assessment Tribunal. Learned Single Judge directed the appeal to be disposed of in a particular way. Learned Single Judge, however, according to him, erred in directing the appellants to raise provisional bill by increasing annual valuation for the second quarter 2001-2002 till the first quarter 2007-2008 by 10% and further increase it by 10% from the second quarter 2007-2008 onwards. He submits that, such direction cannot be issued by the learned Single Judge. In support of his contention, he relies upon ***(1998) 2 Cal LJ 246 (The Calcutta Municipal Corporation & Ors. Versus Sitaram Charity Trust & Ors.).***

3. Learned advocate appearing for the writ petitioners submits that, the annual valuation for the second quarter

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1995-1996 till the first quarter 2001-2002 was under a sum of Rs. 45,000/-. Subsequently, for the second quarter 2001-2002 to the first quarter 2007-2008 the proposed valuation was increased to Rs.49,900/-. Writ petitioners dispute such valuation. According to her, the annual valuation cannot exceed more than 10%.

4. We find from the records that, the proposed annual valuation of a property, for the second quarter 2001-2002 to the first quarter 2007-2008 was made the subject-matter of challenge in the writ petition. In such writ petition, learned Single Judge, permitted the writ petitioner to prefer an appeal before the Assessment Tribunal within February 15, 2016. Court is informed that appeal was filed within the period prescribed by the learned Single Judge.

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5. According to the appellants, the appeal stood abated since the writ petitioners did not comply with the subsequent directions of the impugned order.

6. Contention of the writ petitioners is that, the appellants did not comply with the direction contained in the impugned order and raise the appropriate bills for the writ petitioners to pay. In any event, writ petitioners volunteered and paid the property taxes which were kept in the suspension account.

7. Since, an appeal was preferred with regard to the proposed valuation for the second quarter 2001-2002 to the first quarter 2007-2008 before Assessment Tribunal, such Tribunal should decide such appeal in accordance with law. Tribunal will pass final order in the appeal preferably within a period of six weeks from date. We are

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issuing such direction in view of the fact that, the appeal is pending since February 2016.

8. In ***Sitaram Charity Trust & Ors. (Supra)*** Coordinate Bench, set aside direction issued by the learned Single Judge, to prefer an appeal without making any payment whatsoever. In the facts of the present case, learned Single Judge directed increase of valuation for the next assessment cycles at the rate of 10% per annum.

9. With the deepest of respect, issue of increase or decrease of the annual valuation of an immovable property should be best left to the Municipal Authorities. In the event, the assesses are aggrieved by the decision with regard thereto, there are adequate statutory alternative available to such assesses to avail of.

10. In such circumstances, we set aside the direction contained in the impugned order which requires the

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appellants to raise provisional assessment bills upon the writ petitioners in the frequency and at the rate as specified in the impugned order. Appellants are at liberty to undertake revision of annual valuation for such period in accordance with law.

11. We clarify that, appellants are at liberty to fix annual valuation of the property concerned, in accordance with law for the quarters for which the impugned order directed raising of provisional bill. In the event, writ petitioners are aggrieved by such annual valuation, writ petitioners are at liberty to avail of their remedies under the statute.

12. We clarify that, we did not speak on the merits of the annual valuation with regard to the property concerned. Assessment Tribunal will proceed with the appeal without being prejudiced by any of the observations made by us in this order.

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13. **MAT 1098 of 2016** along with all connected applications are **disposed of** without any order as to costs.

(Debangsu Basak, J.)

14. I agree.

(Md. Shabbar Rashidi, J.)

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