02.04.2025
Sl. No.44
Ct.3/ tkm

W.P.A. 15871 of 2024
[*M/s. Farinni Leather Pvt. Ltd. & Anr. vs. KMC & Ors.]*

Mr. Sandip Kumar De
Mr. Abhijit Sarkar
Mr. Abhik Chitta Kundu
… … for the petitioner

Ms. Koyeli Bhattacharyya
Ms. Paroma Sengupta
… … for the KMC

1. Petitioners have preferred the present writ petition challenging the order dated 25.4.2024, passed by the Municipal Assessment Tribunal in M.A.A. No. 82 of 2018.

2. Learned counsel for the petitioners had moved an application before the Municipal Assessment Tribunal being M.A.A. No. 82 of 2018 seeking transfer of the pending appeal before the Lok Adalat. The said application was dismissed by the Tribunal relying on Section 20 (b) of the Legal *Legal Services Authorities Act, 1987.*

Section 20(b) of the Legal Services Authorities Act, 1987 provides that:

"O*ne of the parties thereof makes an application to the court for referring the case to the Lok Adalat for settlement and if such court is prima facie satisfied that there are chances of such settlement or (b)(ii) – the court is satisfied that the matter is appropriate one to be taken cognizance by the Lok Adalat, the court shall refer the case to the Lok Adalat-*

Provided that no case shall be referred to the Lok Adalat under sub clause (b) of clause (i) or clause (ii) by such court except after giving a reasonable opportunity of being heard to the parties."

3. In view of the given scenario and based on the material consideration, the Tribunal had arrived at the conclusion that the respondent- Kolkata Municipal Corporation did not concede to the referral of the said matter for settlement before the Lok Adalat. The Tribunal observed that unless both parties mutually agree to settle the dispute, no purpose would be served by transferring the matter to the Lok Adalat. Since the petitioner and the respondent were not in mutual agreement for settlement of the dispute before the Lok Adalat and the respondent had objected to the same, the Tribunal decided not to refer the matter before the Lok Adalat. Consequently, the matter is still pending adjudication before the Tribunal wherein the petitioner has challenged the enhanced valuation, effective from the 4th quarter 2016-17 in respect of premises no. 21 Pottery Road, Kolkata.

4. This court has carefully heard the arguments advanced by the learned counsel for the parties and examined the documents placed on record.

5. The referral of the disputes to the Lok Adalat is contingent upon the willingness of both parties to amicably resolve their dispute outside the formal litigation framework. In the absence of such consensus, compelling a party to engage in an alternative dispute resolution mechanism would be contrary to the statutory scheme.

6. As per section 20(b) of the Legal Services Authorities Act, 1987, the dispute can be referred to Lok Adalat if the court is prima facie satisfied that the dispute can be resolved by mediation process. In the present case the Tribunal has made a reasoned finding that the present case does not qualify as an appropriate matter for resolution before the Lok Adalat for the following reason: (i) The Tribunal noted that the dispute involves substantial outstanding tax dues exceeding Rs. 50 Lakhs. (ii) One of the parties is not agreeable for settlement and opposes the plea for referring the matter to Lok Adalat.

7. As per section 189 (6) of the KMC Act, no appeal under this section shall be entertained unless the property tax, including penalty, together with interest on such property tax is deposited with the Corporation. The petitioner, instead of complying

with the mandatory pre-deposit requirement under Section 189 (6) of the KMC Act, 1980, sought to circumvent their statutory obligation by seeking a transfer of their appeal to the Lok Adalat.

8. This Court is convinced with the Tribunal's well reasoned observation that the petitioner's appeal can only be adjudicated upon compliance with the statutory pre-requisite condition. Further it is also noted that the said order does not prejudice the petitioner in any manner since the appeal is pending before the Tribunal and he can take all necessary averments and defence before the Tribunal.

9. It is the submission of the learned counsel for the petitioner that the KMC has power to waive off interest and penalty. If KMC is willing to waive of the same, they can do so even before the Tribunal. No additional benefit can be bestowed by referring the present matter to the Lok Adalat, rather it will delay the disposal of the appeal.

10. The present writ petition, in essence, does not suffer from any legal prejudice as the petitioners' appeal remains pending before the Tribunal, where they retain the liberty to raise all necessary contentions and defenses. The impugned order neither curtails the substantial

rights nor forecloses any legal remedy available to them under the statute.

11. In view of the aforesaid this court is of the considered opinion that there is no legal infirmity in the order passed by the Municipal Assessment Tribunal. Hence, the present writ petition is dismissed.

(Gaurang Kanth, J.)