OD-9

WPO/166/2025

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

M/s. SAPTAPADI RESTAURANT & ANR.

-VERSUS-

THE KOLKATA MUNCIPAL
CORPORATION AND ORS.

Appearance:

Mr. Jayanta Narayan Chatterjee, Adv.
Mr. Sirshendu Sinha Roy, Adv.
Mr. Supreem Naskar, Adv.
Ms. Jayashree Patra, Adv.
...for *the petitioner.*

Mr. Biswajit Mukherjee, Adv.
Mr. Swapan Kuamr Debnath, Adv.
Ms. Piyali Sengupta, Adv.
...for the KMC.

Mr. Sayan Ray, Adv.
Mr. Samrat Choudhury, Adv.
...for the respondent no.7

BEFORE:
The Hon'ble JUSTICE GAURANG KANTH
Date : 22nd May, 2025

The Court: The petitioner in the present writ petition is challenging the notices of attachment of rent issued by the respondent municipality towards outstanding property tax qua the premises No.229D, Raja Ram Mohan Roy Road, Kolkata, Ward No.123.

It is the case of the petitioner that he is a lessee qua the premises in question and is running a restaurant in the name and style of M/s. Saptapadi from the said premises. He entered into a 60 month lease agreement commencing from 01.12.2021 to 30.11.2026 for a monthly lease rent of Rs.1,25,000/- plus GST along with a refundable security deposit of Rs.7,50,000/- paid in advance at the time of execution of the lease agreement with the respondent no.7.

The petitioners received a notice for immediate payment of outstanding dues dated 01.08.2024 issued by the Chief Manager (Revenue) of the Kolkata Municipal Corporation addressed to the respondent no.7 in which it is mentioned that that there is an outstanding property tax dues amounting to Rs.27,37,309/- qua the premises in question and was requested to make immediate arrangement for payment of the said outstanding amount within seven days from the date of display of the notice.

The petitioners herein, being lessee were constrained to issue a notice dated 06.08.2024, addressed to the respondent no. 8, the director of the respondent no.7. In the said notice, the petitioners enumerated the fact that the respondent no. 7, being the lessor/landlord was liable to pay the property taxes as assessed by the Kolkata Municipal Corporation amounting to Rs. 27,37,309/-.

The respondent no.7 vide letter dated 16.08.2024, refused to make the said payment stating that the liability for paying the municipal taxes as per the agreement of lease dated 01.12.2021, was on the lessee. Vide letter dated 29.08.2024 the petitioner denied the said liability. The petitioner subsequently vide letter dated 29.08.2024 requested the Chief Manager (Revenue) and

Assessor & Collector, Borough-XVI, KMC to recover it from the lessor, the respondent no.7.

However, without considering the petitioner's reply to the respondent/municipality issued another notice for attachment of rent dated 11.12.2024, the first reminder dated 07.01.2025 and the second reminder dated 04.02.2025 were sent to the petitioner. Being aggrieved by the same, the petitioner has preferred the present writ petition.

This Court has heard arguments advanced by the parties and has perused the documents placed on record.

The petitioner is the lessee qua the said premises in question. The tax demand qua the said premises in question is a first-hand responsibility of the owner of the premises. Whether the said amount is to be recovered from the lessee is dependent upon the agreement between the lessor and the lessee. However, if the property tax dues remain outstanding in respect of the said premises, the Commissioner of Kolkata Municipal Corporation is empowered to attach the lease rent by virtue of Section 195 read with Section 225 of the Kolkata Municipal Corporation Act, 1980.

In the present case, there exist substantial outstanding property tax dues in respect of the premises. The landlord has neither taken any initiative to challenge the assessment of the said property tax nor has made any effort to demand for payment of the outstanding liability. In these circumstances, the respondent/municipality was well within its right to recover the dues from the lessee by attaching the lease rent payable by the lessee, under the provisions of Section 195 read with Section 225 of the KMC Act, 1980.

The dispute between the petitioner and the landlord regarding the liability to pay the property tax is their private dispute and the same has to be adjudicated in terms of the lease agreement subsisting between the petitioner and his landlord. It is noted that there is an arbitration clause in the lease agreement executed between the parties. The respondent/municipality has nothing to do with the terms of the said lease agreement.

Learned Advocate for the petitioner is at liberty to raise this issue of property tax liability either in terms of the lease agreement existing between the landlord and the petitioner or before any other appropriate forum, which he may choose to approach.

In view thereof, this Court is of the considered opinion that KMC acted within its legal authority in attaching the lease rent, as there are substantial outstanding property tax dues, and the same has been done in accordance with Section 195 read with Section 225 of the Kolkata Municipal Corporation Act, 1980.

Since there is no merit in the contentions of the petitioner, the present writ petition (WPO/166/2025) is dismissed in the above terms.

(GAURANG KANTH, J.)

A/s.