

(1983) 03 CAL CK 0024

Calcutta High Court

Case No: None

In Re: West Bengal Middle Class
House Owners Association and
Others

APPELLANT

Vs

RESPONDENT

Date of Decision: March 8, 1983

Acts Referred:

- Calcutta Municipal Act, 1951 - Section 172, 178

Citation: 86 CWN 536

Hon'ble Judges: Chittatosh Mookerjee, J

Bench: Single Bench

Advocate: Dipankar Gupta and Bulu Chatterjee, for the Appellant; Prodip Ghosh and B. Banerjee for Corporation of Calcutta, for the Respondent

Final Decision: Dismissed

Judgement

Chittatosh Mookerjee, J.

The petitioner No. 1 claims to be an Association of middle-class house owners in West Bengal. The petitioner Nos. 2 and 3 are described as the President and the Secretary of the petitioner No. 1 Association. The petitioner No. 4 is a member of the petitioner No. 1 Association, On 26th March, 1982 the Commissioner, Corporation of Calcutta had given u/s 178 of the Calcutta Municipal Act, 1951 a public notice that the valuation of the lands and buildings in Ward No. 95 made u/s 172 of the said Act, had been completed. The petitioners in this writ application have challenged the said valuation list of lands and buildings in Ward No. 95. The grievance of the petitioners is that the valuation of the buildings in Ward No. 95 have been arbitrarily increased without following any rational principle. Further, according to the petitioners, the said increases have been made in discriminatory and arbitrary manner. Having heard the learned advocates for both parties. I am not inclined to entertain this writ petition because the owners and the occupiers of the buildings in

Ward No. 95 have adequate alternative remedies, against the purported increases of valuation of their buildings. Under sub-section (1) of section 168 of the Calcutta Municipal Act, 1951 for the purpose of assessment to the consolidated rates, the annual values of the lands and buildings are required to be determined by ascertaining the gross annual rents at which the lands and buildings are reasonably expected to let subject to certain admissible allowances in case of buildings. In all cases in which the land or building is valued for the first time or at the time when the objection to previous valuation pending for decision or is valued after cancellation of previous valuation or in which the valuation of any land or building previously valued is increased u/s 172, the Commissioner, Corporation of Calcutta is bound to give u/s 182 of the Calcutta Municipal Act, 1951 special notice to the owner and the occupier of the said holding. When the valuation is so increased, the said notice shall contain the statements of the grounds of such increase.

2. Any person who is dissatisfied with the valuation made under Chapter-XI of the Calcutta Municipal Act, 1951 may deliver within the prescribed time at the municipal office a written notice u/s 181 stating the grounds of his objection to such valuation. The Commissioner or a Deputy Commissioner or an officer specially empowered by the State Government shall hear u/s 182 of the said Act the objection after giving notice to the objector of the time and place at which his objection would be investigated. Any person dissatisfied by any order u/s 182 of the said Act may appeal within the prescribed time u/s 183(1) to the Court of Small Causes having jurisdiction. An appeal from a decision made by the Court of Small Causes lies to the High Court.

3. The substance of the petitioners' grievance in this writ application is when the increases in the valuation have been made u/s 172 of the Act without any reference to the gross annual rental at which the buildings might be reasonably expected to let. In other words, the question the correctness of the determination of the gross annual rental of the buildings situated in Ward No. 95. I have already referred to the provisions of the Calcutta Municipal Act, 1951 which elaborately provide for filing objections against such valuation determined u/s 172 of the Calcutta Municipal Act, 1951. At this stage, I may record that although the Corporation of Calcutta has not filed any affidavit-in-opposition, they have sought to rely on the provisions contained in the Assessment and Collection Manual which, however, have no statutory force. They have also purported to rely upon the entries made in the Inspection Books of the different holdings in Ward No. 95 in order to justify "the increases in their valuation. In order to decide whether the valuations have been really made on the basis of the gross annual rental at which the buildings might be reasonably expected to let, it would be necessary to allow the parties to give evidence. For the same reason without recording evidence in respect of individual holdings in Ward No. 95, it would not be possible to pronounce whether the valuation of the holding or holdings have been made in an arbitrary and discriminatory manner. This writ petition does not also disclose all the relevant materials. On the other hand, persons

who might feel aggrieved by the said determination of valuation of the buildings made u/s 172 of the Calcutta Municipal Act have more efficacious and effective remedy under the statute. An aggrieved person is at liberty to file objections and thereafter to prefer appeals provided under the Calcutta Municipal Act, 1951.

4. The petitioners have not questioned the jurisdiction or authority of the Corporation of Calcutta to determine under Sec. 172 of the Calcutta Municipal Act, 1951 the valuation of holdings in Ward No. 95. They do not also contend that the entire Valuation List prepared u/s 172 is ultra vires and in disregard of the mandatory provisions of law. As already stated, the substance of the petitioner's grievance is that the value of the individual buildings in Ward No. 95 have been arbitrarily and in a discriminatory manner increased. I have already pointed out that the persons who feel aggrieved thereby, ought to avail of remedies provided in the Calcutta Municipal Act itself. For the foregoing reasons, I reject this application. I, however, express no opinion regarding the correctness or otherwise of the increases in the valuation of the individual buildings in Ward No. 95. Nothing observed by me will prevent the individual owners or occupiers from filing objections u/s 181 of the Calcutta Municipal Act, 1951 or from thereafter preferring appeals u/s 183 of the Calcutta Municipal Act, 1951.