(1966) 04 CAL CK 0007

In the Calcutta High Court

Corporation of Calcutta APPELLANT

Vs

Chandi Charan Basak and Others RESPONDENT

Date of Decision : 29-04-1966

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Constitution of India, 1950 — Article 227

Citation : 71 CWN 20

Hon'ble Judges : P.B. Mukherji, J;D. Basu, J

Bench : Division Bench

Advocate : Sunil Kumar Basu, for the Appellant;Gopinath Nandy, for the Respondent

Judgement

P.B. Mukharji, J.—This Rule was obtained by the Corporation of Calcutta against the order of the Small Causes Court, Calcutta deciding a point raised in the appeal before that Court u/s 183 of the Calcutta Municipal Act, 1951. The objection of the Corporation of Calcutta before the Court of Small Causes in appeal was that the Appellant Chandi Charan Basak who is the first opposite party here, was not competent to maintain the appeal u/s 183 of the Calcutta Municipal Act. The point raised in this application is of considerable importance for Calcutta and its citizens and rate-payers.

2. The facts relevant for the purpose of appreciating this point of law must be stated at the outset. Premises No. 363, Upper Circular Road, Calcutta, previously belonged jointly to six persons who are mentioned as opposite parties in this application including the said Chandi Charan Basak. It was assessed by the Corporation u/s 172(2) of the Calcutta Municipal Act, 1951 and an annual valuation of Rs. 7427/- was fixed with effect from third quarter of 1957-58. Such valuation was to remain in force for a period of six years from the third quarter of 1957-58. On the 6th December, 1957 there was a partition of the said premises amongst the co-sharers. As a result of such partition, the ownership of the premises was sub-divided into several separate shares. Upon such partition

all the opposite parties except the first opposite party Chandi Charan Basak and the seventh opposite party Kala Chand Basak addressed a letter to the Assessor of the Corporation of Calcutta dated the 17th February, 1958 requesting the Corporation to give separate number for each allotment and to separately assess each separate portion. It is said that the Assessment Department received this letter or application on the 9th April, 1958. A plan showing the distinct colours the different portions of the separate sub-divisions was enclosed with that letter. Documentary evidence was also produced by such Appellants before the Corporation. Thereupon notices were issued to all the opposite parties including the first opposite party who is the main contestant before us. This notice is dated the 5th February, 1959 and is annexed to the affidavit-in-opposition of Chandi Charan Basak affirmed in these proceedings on the 22nd March, 1966. This notice proposed the valuation of each of the sub-divided shares and such proposal was contained in Annexure to that notice dated the 5th February, 1959. The portion allotted to Chandi Charan Basak was valued at an annual value of Rs. 846/- in that proposal annexed to that notice. The notice expressly stated as follows:

If any of the co-sharers is dissatisfied with the apportionment proposed he may prefer an objection in writing within six weeks from the date of the receipt of notice. On receipt of an objection from any of the shareholders, the case will be placed before the Deputy Commissioner and a notice of hearing will be given to all the parties. It will be at the discretion of the Deputy Commissioner to confirm the proposed distribution or to make a re-distribution of the valuations or to cancel the proposal altogether and restore the original valuation or to pass such orders, as he may deem proper under the provisions of the Calcutta Municipal Act, 1951.

3. Only the opposite party Satyendra Nath Sett objected to the proposal. Chandi Charan Basak who is the main contestant before us in this proceeding did not prefer any objection because the valuation allowed to his share apparently was unobjectionable and he was prepared to accept the same. According to the terms of the notice when the objection from Satyendra Nath Sett was received by the Corporation, the Corporation gave notice to all the other opposite parties by a notice dated the 5th May, 1951 saying that the objection will be heard and expressly requesting the opposite parties including Chandi Charan Basak "to appear before him either personally or by agent with evidence, oral or documentary in support of the apportioned valuation which you consider should be fixed for your share and wait till the case is disposed of.."

4. Pursuant to such notice the opposite party Chandi Charan Basak appeared at the hearing of the objection. On the 27th May, 1959, the Petitioner Corporation decided and revised the valuation. With regard to Chandi Charan Basak''s portion No. 363/D, Upper Chitpore Road, Calcutta, the Corporation raised the annual valuation to Rs. 1567/- almost about double the previous valuation. Naturally the first opposite party Chandi Charan Basak was dissatisfied with that order of the

Deputy Commissioner dated the 27th May, 1959 and preferred an appeal before the Court of Small Causes u/s 183 of the Calcutta Municipal Act on the 11th July, 1959. Originally the Corporation was the sole Respondent in that appeal but the appeal was amended by adding the opposite parties Nos. 2 to 9 as Respondents in the appeal.

5. At the appeal before the Small Causes Court a preliminary objection was raised by the Corporation about the maintainability of the appeal. The learned Judge of the Small Causes Court came to the conclusion that Chandi Charan Basak, the first opposite party before us and the Appellant before the Small Causes Court, was quite competent and had the right to maintain the appeal u/s 183 of the Calcutta Municipal Act, 1951 read with Sections 181 and 182 of the said Act in respect of the valuation made u/s 174 of the Calcutta Municipal Act. The Small Causes Court Judge held, therefore, that the appeal was maintainable and overruled the preliminary objection of the Corporation.

6. The Corporation has now applied before us invoking jurisdiction of this Court first u/s 115 of the CPC and secondly under Article 227 of the Constitution. Section 114, CPC does not and cannot apply to the present proceeding for the simple reason that an appeal lies expressly from a decision made by the Small Causes Court u/s 183 of the Calcutta Municipal Act.

7. Sub-section (3) of Section 183 of the Calcutta Municipal Act provides as follows:

(3) . . . . . An appeal from a decision made by the Court of Small Causes shall lie to the High Court.

This being a preliminary point in the pending appeal before the Small Causes Court, the Corporation either could have waited for the final decision and thereafter appealed or could have appealed from the decision deciding the preliminary point against the Corporation. Mr. Basu appearing for the Corporation argued that the language "decision made by the Court of Small Causes" in Section 183(3) of the Calcutta Municipal Act would seem to indicate that it was the final decision and not a decision on a preliminary point such as the present one. We are unable to accept that argument. The language or the word is ''decision''. It does not use the word ''final'' or ''interlocutory''. There is no qualification of the word ''decision''. Besides even this was not a decision it would be followed by the final decision on merits of the valuation and then this point along with the decision would be the decision according to Mr. Basu. Therefore the argument that there is no appeal cannot be sustained and on that ground of express statutory provision for an appeal to the High Court, the jurisdiction of this Court u/s 115, CPC cannot be invoked. Therefore this application would fail under the Revisional jurisdiction u/s 115 CPC Were it necessary however, this Court could treat the present application u/s 115, CPC as an appeal u/s 18(3) of the Calcutta Municipal Act.

8. But the application is also made under Article 227 of the Constitution. That

Article gives the power of superintendence to this Court. Under such superintendence the authorities are now well settled, that this Court can see whether a subordinate Court has exceeded the bounds of its jurisdiction. The point being one of jurisdiction and the maintainability of an appeal and the competence of an appeal, the Petitioner Corporation is well within the constitutional legal limits to invoke Article 227 of the Constitution. Normally however, if there is a special statutory provision for an appeal no Court would unnecessarily invoke Article 227 of the Constitution to intervene and correct. Having regard to the importance of the point of law raised on this application whether the Small Causes Court, Calcutta has kept itself within the bounds or exceeded the bounds of jurisdiction in deciding the question of maintainability of the appeal by the Chandi Charan Basak u/s 183 of the Calcutta Municipal Act and having regard to the fact that this point of law has a great public importance affecting numerous rate payers of this great city of Calcutta, this Court is competent and should exercise its jurisdiction under Article 227 of the Constitution which has also been invoked in this application. We overrule therefore the objection to the maintainability of this application and hold that it is maintainable under Article 227 of the Constitution.

9. Coming now to the merits of this point of law it is essential to formulate the arguments advanced by Mr. Basu on behalf of the Petitioner Corporation. The substance of his argument is this that this is not really a case of valuation at all but is a case of sub-division within a valuation already made.

10. The argument is attractive. The strength of this argument is drawn from the fact that when a valuation is made of sub-divided and separate portions what used to be the same premises, the matter is governed u/s 174 of the Calcutta Municipal Act. Section 174 of the Calcutta Municipal Act prescribes the outside limit in the first proviso of Section 174 of the Calcutta Municipal Act stating:

Provided that by such separate valuation the total valuation for the entire premises shall not be increased.

From this Mr. Basu argues that the valuation, therefore, remains what it was before and what really is done is to value the sub-divided portions of the separate allottees of the same premises under a partition. The real valuation on the basis of this argument of Mr. Basu is u/s 172 of the Calcutta Municipal Act which provides for the determination of that valuation. This section speaks also of the general valuation under the Act in Section 172(2) of the Act. That valuation, according to this argument, lasts for the period mentioned in Section 172(2). Pursuing this argument it is contended by Mr. Basu for the Corporation that Section 174 provides: "If during the currency of any period prescribed by Sub-section (1) or Sub-section (2) of Section 172, the ownership of any land or building, or portion thereof, is sub-divided into separate shares, the Commissioner may, in accordance with such rules as may be made by the Standing Finance Committee, on the application of any of the co-owners divide the valuation in the manner laid down in that section. Hence it is contended that

Section 174 is a division of the valuation and not a valuation itself read with the proviso that the total valuation must not be increased.

11. Developing this argument for the Corporation the next contention is based on Section 181(1) of the Calcutta Municipal Act which lays down: "Any person who is dissatisfied with a valuation made under this Chapter may deliver at the municipal office a written notice stating the grounds of his objection to such valuation." It is contended that the true interpretation of the word "valuation" in the above Section 181(1) of the Calcutta Municipal Act is valuation u/s 172 of the Calcutta Municipal Act and not the division of valuation u/s 174 of the Calcutta Municipal Act. Hence it is argued that Chandi Charan Basak has no right of objection and he does not answer the description of the statute, namely, "Any person who is dissatisfied with a valuation."

12. This argument is further developed by another reason provided in Sub-section (2) of Section 181 of the Calcutta Municipal Act, 1951 which reads as follows:

Such notice shall be delivered within fifteen days after the publication of the notice referred to in Section 178, or after receipt of the notice referred to in Section 180, if such notice is received after the publication of the notice referred in Section 178.

Analysing this provision of Sub-section (2) of Section 181 of the Calcutta Municipal Act it will be seen that the notice referred to in Section 178 and Section 180 is concerned with the valuation u/s 172 of the Act. That being so, no limitation for filing objection is provided in the case of a division of valuation u/s 174 of the Calcutta Municipal Act. The reason, therefore, is put forward that the person who is contemplated as dissatisfied with the valuation u/s 180(1) of the Act is a person who is dissatisfied with the valuation u/s 172 or else the provision with regard to notice and the limitation for filing objections from the date of such notice would not have contemplated cases only u/s 172. In that view of the matter there is really no provision for limitation for filing objection by a person who is dissatisfied with the order of division of valuation u/s 174 of the Calcutta Municipal Act under the actual terms and the words used u/s 181 of the Act.

13. This argument is also enforced on behalf of the Corporation by the consideration that it is only "such objections" which are mentioned in Section 182 of the Calcutta Municipal Act and it is only such objection which the Corporation hears u/s 182(2) of the Act for it mentions "objection" and also the words "in the presence of the objector."

14. Having gone as far as that it is argued for the Corporation that the construction of Section 183 of the Calcutta Municipal Act dealing with the appeal to Small Causes Court follows almost as matter of course. The opening words of Section 183(1) of the Calcutta Municipal Act, 1951, provides

Any person dissatisfied with any order u/s 182 may appeal to the Court of Small

Causes having jurisdiction in the place where the land or building, to the valuation of which the objection was made, is situated.

The Corporation contends that the language in Section 183(1) of the Act quoted above makes it clear that Chandi Charan Basak is not such a person as mentioned there because he is not a person dissatisfied with any order u/s 182 because it is contended that Section 182 relates to objections against the valuation made only u/s 172 of the Calcutta Municipal Act and his objection is not such an objection but an objection of the division of valuation u/s 174 of the Act. In aid and in support of this argument the word ''valuation'' in Section 183(1) is also emphasized on the same terms as noticed above meaning that the valuation does not include division of valuation and that valuation only means the valuation u/s 172 of the Calcutta Municipal Act and not the division of valuation u/s 174 of the Act.

Reliance is also placed in this connection on Section 184 of the Calcutta Municipal Act which reads as follows:

(1) Every valuation made u/s 172 shall, subject to the provisions of Sections 181, 182 and 183, be final.

(2) Every order passed u/s 182 by the Commissioner, a Deputy Commissioner or an officer specially appointed under Sub-section (2) of Section 182, shall, subject to the provisions of Section 183, be final.

It is pointed out that the valuation mentioned is only the valuation mentioned in Section 172 which is final subject no doubt to the provisions of Sections 181, 182 and 183 of the Act. This, however, is a double edged argument, because no doubt the valuation u/s 172 is final subject to those other sections, the omission to mention Section 174, would then mean that the sub-division of valuation u/s 174 is not final and therefore liable to objection at any stage and without any limitation.

15. Finally reference is made to the rules made by Standing Finance Committee mentioned in Section 174 of the Calcutta Municipal Act. These rules were published in a supplement to the Calcutta Gazette dated the 20th June, 1957. It sets out the Resolution passed by the Standing Finance Committee of the Corporation dated the 27th May, 1957 adopting finally the rules framed expressly u/s 174 of the Calcutta Municipal Act 1951. By Rule 1 it expressly provides: "Any of the co-owners of any land or building who intends to apply for apportionment of valuation, or for separation of number and valuation, u/s 174 of the Act, shall submit with his application a block plan of the parent holding showing therein in distinct colours, the different portions in respect of which such apportionment or separation is wanted together with documentary evidence, if any, in support of his application;

16. "Provided that in the case of apportionment of valuation among the co-owners according to specified share only without separate allotments, the

production of a plan will not be necessary." Rule 2 proceeds to provide inter alia that upon receipt of such an application "the Commissioner shall give notice thereof by registered post to all the co-owners of the same, as also to all the parties interested, intimating the manner in which the valuation is proposed to be apportioned according to the value of the respective shares or the different portions are proposed to be valued separately with separate numbers, and inviting objection in writing if any, to such proposal." Rule 2 expressly requires the Commissioner, to maintain a register of such application and to keep the register open to the public for inspection on payment of the prescribed inspection fee. Rule 3 then proceeds to lay down that notice shall be given by registered post to the objector as well as other co-owners and parties interested of a time and place at which the objection will be investigated. It is provided there in Rule 3(iii) as follows:

Every order passed by the Commissioner and/or officer (not below the rank of a Deputy Commissioner) nominated by him under (ii) shall be final.

17. It is upon this Rule that a good deal of emphasis was laid by Mr. Basu appearing for the Corporation stating that that order dividing the valuation u/s 174 of the Calcutta Municipal Act is, therefore, final and there is no further right of appeal because it is made in accordance with (1) Rules made by the Standing Finance Committee as laid down in Section 174 of the Calcutta Municipal Act and (ii) because this finality under Rule 3(iii) is not subject to Section 183 by implied exclusion in contrast with the language used in Section 184 of the Calcutta Municipal Act quoted above.

18. This is in brief the entire argument from diverse aspects in support of the contention of the Corporation that a person aggrieved by the division of valuation u/s 174 of the Calcutta Municipal Act has no right of objection u/s 181 of the Calcutta Municipal Act nor a right of appeal u/s 183 of the Calcutta Municipal Act nor can he obtain any relief under the Rules of the Standing Finance Committee although by this division of valuation u/s 174 of the Calcutta Municipal Act the person aggrieved in this case has had his valuation increased as much as double the valuation that was originally proposed by the Corporation itself. Such a person of one who has no legal remedy for his grievance. An interpretation which produces such a serious consequence has to be severely tested and examined.

19. The primary answer to the contention put forward on behalf of the Corporation is the plain language of the statute. Section 181(1) of the Calcutta Municipal Act uses the words: "any person who is dissatisfied with a valuation made under this chapter". To accept the argument of the Corporation is to read the words "under this chapter" as "only u/s 172 of the Calcutta Municipal Act". That in our opinion is not permissible for that will be a wholly artificial construction and will introduce entirely artificial limitation which is not in the language of the section. The words "under this chapter'' must include all the sections under this Chapter which is chapter 11 of the Calcutta Municipal Act and which necessarily includes not only Section 172 but also other sections which in

their turn include Section 174 of the Calcutta Municipal Act. The word "valuation" in Section 181(1) therefore, must be read as including all kinds and types of valuation under this chapter 11 of the Calcutta Municipal Act and therefore must include the case of a valuation which is called division of valuation u/s 174 of the Calcutta Municipal Act. Secondly the word "valuation" in Section 181 of the Calcutta Municipal Act in its plain meaning would certainly include the case of dividing the valuation u/s 174 of the Calcutta Municipal Act. It is significant to note that the word "valuation" has been expressly introduced in Section 174 of the Calcutta Municipal Act by the Calcutta Municipal (Amended) Act, 1953 - West Bengal Act XIX of 1953 and by Section 31 thereof. Formerly the words before the amendment were "assessed" and "assessment" in the section corresponding to the present Section 174. Those two words "assess" and "assessment" were substituted by the word "valuation" by the Amending Act of 1953. That being so Section 174 must be treated as a case of valuation, namely, of dividing the valuation. Taking, therefore, the word "valuation" it should have the same meaning as in Section 174 as well as in Section 181 of the Calcutta Municipal Act and there is no reason why valuation u/s 174 of the Calcutta Municipal Act should not be treated as a case or a type of valuation after the amendment. No doubt it is not the type of general valuation or the total valuation and that it is confined only to the division of valuation of the separate shares mentioned in Section 174 of the Calcutta Municipal Act.

20. Lastly from the common sense point of view Section 174 of the Calcutta Municipal Act is basically and intrinsically a case of valuation. No doubt the total valuation of the undivided premises arrived at u/s 172 of the Calcutta Municipal Act on the "general valuation" cannot be altered or increased but then Section 174 of the Act is itself a case where during the currency of the period mentioned in Section 172(1) and (2) of the Act the ownership is sub-divided into separate shares and it is the valuation of the separate shares and the division of valuation which are contemplated in the type of valuation u/s 174. It is a kind of a rider on the "general valuation" u/s 172 of the Act. There is no reason, therefore, in commonsense, apart from the interpretation which we have given, to exclude Section 174 of the Calcutta Municipal Act on the ground that it is not a case of valuation within the meaning of Section 181 of the Calcutta Municipal Act.

21. Pursuing the point of interpretation a little further, we find that even though an owner of a sub-divided share like Chandi Charan Basak is not an objector to begin with on the proposed valuation u/s 174 of his divided share, because of the simple ground that he may not have any objection at that stage to the valuation, yet he can nevertheless come into the picture if his proposed valuation is altered to his great detriment as was done in this case by doubling the valuation. That is the reason why there is a significant provision made in Section 182(3) of the Calcutta Municipal Act. That relevant and significant provision provides that a copy of the reasons for the order should be sent by registered post not only to the person who gave the notice of objection u/s 181(1) of the Calcutta Municipal Act but also it provides in clear terms the following duty:

shall also be supplied, on application made in this behalf accompanied by a fee of one rupee, to every owner or occupier of the land or building, who is affected by the order.

Therefore, the order contemplates that other persons of divided shares can be affected and therefore, a copy of the order should be made available to such other persons who are affected by the order although such persons are not objectors u/s 181(1) of the Act. That appears to clearly contemplate a case like the opposite party Chandi Charan Basak in the present proceeding.

22. The matter of interpretation does not end there. The following Section 183(1) of the Calcutta Municipal Act which has been quoted above uses the expression "any person dissatisfied with any order u/s 182." In plain language certainly and on the plainest of interpretation the opposite party Chandi Charan Basak is a person dissatisfied with an order u/s 182 in this case on the objection of another co-sharer Satyendra Nath Sett, opposite party No. 3. Therefore, the ambit of that expression u/s 183(1) is much wider and is not confined merely to an objector u/s 181(1) of the Act but includes other co-sharers whose valuation has been affected in respect of his share for he will literally answer the description of the statute "any person dissatisfied with an order u/s 182" as used in Section 183(1) of the Calcutta Municipal Act. Indeed this expression in Section 183(1) is a departure from the old law contained in the Calcutta Municipal Act, 1923 whose corresponding Section 141 used the significantly narrower expression "any person dissatisfied with the order passed on his objection may appeal to the Court of Small Causes". The right of appeal was then only given to the person dissatisfied with an order passed on his objection and therefore, the Appellant had to be an objector. That law is changed under the present Section 183(1) of the new Calcutta Municipal Act of 1951. The argument, therefore, of the Corporation cannot prevail after the new Act of 1951.

23. There is a more formidable answer to the arguments put forward by the Corporation. That answer is contained in the very express and significant proviso (i) to Section 207(2) of the Calcutta Municipal Act, 1951. Now Section 207 deals with the payment of consolidated rate, affected by objections to valuation. It is included in the very same chapter XI as Section 183 of the Calcutta Municipal Act. Now the proviso (i) to Section 207(2) of the Calcutta Municipal Act reads as follows:

If, when the objection has been finally determined, the previous valuation is altered, then provided that -

(i) if any premises have, for the purposes of valuation u/s 172, been for the first time valued or sub-divided or amalgamated with any other premises, and an objection to the valuation thereof has been made u/s 181, then the consolidate rate shall, pending the final determination of the objection, be paid on such valuation.

This proviso, therefore, expressly refers to the case of sub-division of valuation and expressly recognises objection to such valuation can be made u/s 181 of the Calcutta Municipal Act, 1951. The case of sub-division mentioned in Section 172 of the Calcutta Municipal Act is not the only case of sub-division but must necessarily include the case of sub-division as, contemplated in Section 174 of the Calcutta Municipal Act. For instance, the sub-division mentioned in Section 172(3)(f) of the Calcutta Municipal Act deals with the case where the ownership of any portion of any land or building is acquired by purchase or otherwise by the Board of Trustees for the Improvement of Calcutta. No doubt that is a case of sub-division and that is also during the period as mentioned in Section 172(1) and (2) of the Act. But there may be other sub-division expressly recognised u/s 174. Therefore the statute seems to proceed on the basis that even in such cases of sub-division procedure must be available for objection to the valuation u/s 181.

24. Finally, to accept the argument of the Corporation will be to produce the most incongruous and inclusive results. It will thus mean that a person whose valuation has been doubled on his sub-divided share, has no remedy under the Calcutta Municipal Act, has no right of objection, and has also no right of appeal according to the Corporation. The question is then what right will he have and where he will seek redress for his grievances. On the interpretation put forward by the Corporation he has no remedy under the Calcutta Municipal Act, 1951, a situation which should not be created by an interpretation unless there is absolutely no way out. It was suggested by Mr. Basu for the Corporation that such an unfortunate person who is aggrieved might seek his remedy by filing a suit. This is a debatable question. Indeed it is the Corporation''s argument in this case that the valuation is final under the Rules quoted above and in that case the Civil Court will be faced with the same argument of the Corporation that the Calcutta Municipal Act has withheld all remedies thereunder to such an aggrieved person and the Rules have made such a valuation final.

25. The basic fallacy of the argument for the Corporation is the narrow, restricted and far too technical meaning of the word ''valuation'' that was attempted to be given. Even if it was permissible under the old Calcutta Municipal Act, 1923 the new Calcutta Municipal Act, 1951 makes it impossible. Even under the old Act there are certain decisions which really are against this basic premise on which the Corporation''s argument is built. A Division Bench of this Court - Maclean, C.J. and Banerjee, J. in (1) Corporation of Calcutta v. Bhupati Ray Chowdhury, ILR 26 Calcutta 74, the word "valuation" in Section 135 of the Calcutta Municipal Consolidation Act was considered. The Division Bench came to the conclusion that it did not mean the amount of valuation only, but also includes the whole process or act of valuation. Maclean, C.J. observed at page 77 of that Report as follows:

The question of jurisdiction appears to me to hinge upon what is meant by the term "valuation" in Section 135 of the Act, for the person dissatisfied with that" "valuation" may object if he complies with the provisions of the section. The Corporation contends that the term "valuation" means "the amount of the valuation" or the amount at which any particular property is valued, and that it is only to the amount of valuation that the rate-payer can object and it is only such an objection with which the Small Causes Court has jurisdiction to deal. The point is perhaps, not free from doubt, but the first criticism on this contention is that the Act speaks of "valuation" not "amount of the valuation" and it would be rather incongruous if the dissatisfied person, i.e., the rate-payer, can object to the payment of part of the valuation, but cannot challenge the valuation in its entirety. * * *

What does the term "valuation" mean? Is it confined merely to the amount at which the property is valued, or does it cover the process or act of valuation? * * *

A "valuation" is the act of valuing, and the opposite party may under 135 object to that act of valuing and here he objects to the whole act of valuing on the ground that it is unauthorized and premature.

26. In a subsequent decision of this Court in (2) 43 CWN 789 Derbyshire, C.J. and Nasim Ali, Judge: again considered this question of valuation and whether it was limited to the quantum of valuation. This case also is an authority for the proposition that the Calcutta Municipal Act is not limited to the quantum of valuation but covers the process thereof and the liability to assessment. Consequently it was also held in that decision that in an appeal u/s 141 of the previous Calcutta Municipal Act, 1923, the Appellant was entitled to have the question of liability to assessment considered and the Court of Small Causes had jurisdiction to entertain and determine that question. See the observations of Nasim Ali, J., at page 793, where the learned Judge followed the previous decision quoted above to come to the conclusion that valuation includes the whole process of valuing as well.

27. Again in another Division Bench of Rankin, C.J. and C.C. Ghose, J., in (3) J. C. Mukherjee v. Karnani Industrial Bank Ltd., the same view was repeated and upheld. In fact there it was held that Section 138 of the previous Calcutta Municipal Act, 1923 applied to all cases of an increase of valuation made under any of the headings of Sub-section (2) of Section 131 and not merely to a case where general assessment of valuation had put a figure higher than previously. See the observation of Rankin, C.J. at pages 524-525 of that Report and also at pages 530 and 531 of that report.

28. None of these cases apply because they are all under the old Calcutta Municipal Act, and not under the new Calcutta Municipal Act, 1951. These old cases only expound the legal nature and character of valuation.

29. For the reasons stated above and on the interpretation of relevant sections of the Calcutta Municipal Act, 1951, we hold that the opposite party Chandi Charan Basak has the right of appeal u/s 183(1) of the Calcutta Municipal Act, 1951 as being "the person dissatisfied with any other u/s 182" within the meaning of Section 183(1) of the Calcutta Municipal Act and that his appeal to the Court of

Small Causes was a competent appeal. We uphold the decision of the learned Judge of the Small Causes Court, Calcutta.

This Rule must, therefore, fail and is discharged. The ad interim order is vacated.

There will be no order as to costs.

D. Basu, J.

30. I agree.

