courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 02/09/2026

(1979) 04 CAL CK 0005

In the Calcutta High Court

Case No : A.O.D. No. 42 of 1974

Corporation of Calcutta — APPELLANT

Vs

Gopal Das Mohta — RESPONDENT

Date of Decision : 09-04-1979

Acts Referred:

Calcutta Municipal Corporation Act, 1980 — Section 191, 235, 236, 236(3), 253

Citation : 88 CWN 309

Hon'ble Judges : R.K. Sharma, J;M.M. Dutt, J

Bench : Division Bench

Advocate : Sunil Kumar Basu, for the Appellant;

Final Decision : Dismissed

Judgement

M.M. Dutt, J.—This appeal is at the instance of the Corporation of Calcutta and it arises out of a suit for enforcement of a charge. Premises No. 3B/1, Nurmal Lohia Lane, Calcutta measuring 12 chittaks since Sub-divided into premises Nos. 3B/1A and 3B/1B. Originally belonged to the Board of Trustees for the Imporve-merit of Calcutta. Jamuna Debi Mohta, the predecessor-in-interest of the defendants Nos. 1-6, purchased about 8 chs. of land of the said premises being the subdivided premises No. 3B/1A from the Calcutta Improvement Trust on March 8, 1957. The defendants Nos. 7-9 purchased 3 chs. 9 sq. ft. of land on March 19, 1957 and 1 ch. 4 sq. ft. of land of the said premises now comprised in the sub-divided premises No. 3B/1B, on June 6, 1959 from the Calcutta Improvement Trust. The suit premises was assessed at a consolidated rate on an annual value of Rs. 172/- at Rs. 3-5-3P. per quarter for both owner''s and occupier''s shares, For the subsequent period the Corporation assessed the suit premises to consolidated rate on the basis of an increased valuation of Rs. 5275/- at Rs. 148.36 per quarter in respect of both shares with effect from the first quarter of 1957-58. The predesessor-in-interest of the defendants Nos. 1-6 paid the consolidated rates in respect of premises No. 3B/1, Nurmal Lohia Lane in respect of both shares at the rate of Rs. 3-5-3P. per quarter, which was the old rate, for the period from first quarter 1957-58 to the first quarter of 1959-60. In the instant suit, the Corporation has claimed the balance of consolidated rates covered by supplementary bills for the period from the first quarter of 1957-58 to the first quarter of 1959-60 and the full consolidated rate at Rs. 148-36 per quarter for both owner''s and occupiers shares for the period from second quarter of 1959-60 to the first quarter of 1962-63 covered by the original bills.

2. The principal point that was urged before the learned judge, Tenth Bench, City Civil Court, Calcutta who tried the suit, was that the suit was barred by the provision of Art. 62 of the Limitation Act, 1963 as the suit was instituted 12 years after the money became due and payable. The learned judge came to the finding that the suit having been institution February 16. 1970, the claim of the Corporation for the first three quarters of 1957-58 was barred by limitation. He, however, allowed the claim "of the Corporation for the remaining quarters. The learned Judge also found that as the Corporation failed to prove the presentation of the bills in question relating to the said quarters, the defendants were not liable to pay interest on the arrears of taxes. Upon the said findings, the learned judge decreed the suit in part in a preliminary form. It was declared that the defendant Nos, 1-9 were liable to pay Rs. 2868.12 with interest at 6 per cent per annum from the date of the decree till realisation, and that the defendant Nos. 10, 12 and 14-20 being the occupiers, were liable to pay Rs. 2868.12 with interest at 6 per cent per annum from the date of the decree till realisation. Being aggrieved by the said decree, the Corporation of Calcutta has filed the instant appeal.''

3. Before us also the principal question is whether the learned Judge was justified in holding that the suit was barred by limitation relating to the 3 quarter of 1957-58. The relevant provision in the Limitation Act, 1963 is Art. 62 which provides a period of 12 years from the date when the money sued for becomes due for the institution of a suit to enforce payment of money secured by a mortgage or otherwise charged upon immovable property. It is not disputed that the suit property is charged by virtue of Sec. 253 of the Calcutta Municipal Act, 1951. It has been found by the learned Judge that the money payable on account of the first three quarters of 1957-58 become due and payable on February 15, 1958 under Sec. 191 of the Calcutta Municipal Act.

4. Section 191 lays down that one-half of the consolidated rate shall be payable by the owners of the lands and building and the other half by the occupiers thereof. Further, the payment shall be made in quarterly installments and the quarters shall be taken to commence on the first day of April, the first day of July, the first day of October, and the first day of January. The installments shall be payable on or before the fifteenth day of May, the fifteenth day of August, the fifteenth day of November and the fifteenth day of February, respectively for such quarters. The amount payable for the third quarter of 1957-58, therefore, fell due on February 15, 1958. The suit having been filed on February 16, 1970 was just one day beyond 12 years from February 15, 1958. In the

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/corporation-of-calcutta-appellant-…

circumstances, the learned Judge, in our opinion, is perfectly justified in holding that the amount in respect of the first three quarters of 1957-58 is barred by limitation, as provided in Art. 62 of the Limitation Act.

5. So far as the payment of interest on the amount payable for the remaining quarters are concerned, it has been held by the learned Judge that the Corporation has failed to prove the presentation of bills for the said quarters. Sec. 236 (3) of the Calcutta Municipal Act provides that on the amount of a bill remaining unpaid after fifteen days after presentation of the bill, interest shall be payable at the rate of one-half per cent per mensem for the period commencing on the first day of the quarter following that in which the bill is presented and ending with the month preceding the month in which payment is made. There is no satisfactory evidence that the bills were presented in accordance with Sec. 235 of the Calcutta Municipal Act. In the circumstances, in view of Sub-section (3) of Sec. 236, the Corporation is not entitled to claim interest on the arrear amount of taxes, as claimed and allowed by the learned Judge.

6. For the reasons aforesaid, the judgment and decree of the learned judge are affirmed and this appeal is dismissed. But as none on behalf of the respondents has appeared before us at the hearing of this appeal, there will be no order for costs.

Sharma, J.

I agree.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/corporation-of-calcutta-appellant-…