

(1932) 05 CAL CK 0025
In the Calcutta High Court

Corporation of Calcutta

APPELLANT

Vs

Probhat Chandra Barua

RESPONDENT

Date of Decision : 24-05-1932

Acts Referred:

Calcutta Municipal Act, 1923 — Section 141

Citation : AIR 1933 Cal 128

Hon'ble Judges : M.C. Ghose, J;Guha, J

Bench : Full Bench

Judgement

Guha, J.—The respondent in this appeal, Raja Probhat Chandra Barua as owner of the amalgamated premises No. 12, Mullen Street, Calcutta, appealed u/s 141, Calcutta Municipal Act, to the Court of Small Causes at Sealdah, on being dissatisfied with the order passed by the Deputy Executive Officer of the Calcutta Municipal Corporation, in respect of the valuation made by that officer of the amalgamated premises. The premises formerly bearing Nos. 12,12-1 12-2 and 13 had, on the application of the respondent, been amalgamated into one, No. 12, Mullen Street; Nos. 12, 12-1 and 12-2 being vacant land, were according to the assessment that was in force at the time of the amalgamation in the year 1930, assessed on rental basis; No. 13 was however assessed on residential basis, i.e., on value of land plus cost of construction of the structures standing on the same. On amalgamation, a new assessment was made on residential basis in respect of the whole of the amalgamated premises, and the annual value for the purpose of assessment was raised from Rs. 1,359 to Rs. 1,987. It was against the valuation so made on 23rd May 1930 that an appeal was taken to the Court of Small Causes, as mentioned already.

2. The question raised by the Court of Small Causes, and the questions that arise for consideration by us on appeal to this Court, by the Corporation of Calcutta, relate to this: whether the Deputy Executive Officer was right under the law, in holding that the assessment on amalgamation could be higher than the assessment on separate valuation of the four amalgamated premises No. 12,

12-1, 12-2 and 13 plus the annual value of the new structures raised on the amalgamated premises, numbered as No. 22, Mullen Street.

3. On a consideration of the materials placed on the record, and on a construction of the provisions contained in the Calcutta Municipal Act, relating to the valuation, revaluation and assessment of lands and buildings, to the consolidated rate, the method of determination of annual value and the duration of such assessment, we have come to the conclusion that the view taken by the learned Judge of the Court of Small Causes in allowing the appeal of the respondent before us, is correct. The annual value of the amalgamated premises could not, under the law, exceed Rs. 1,512, during the currency of the assessment that was made in 1928-1929, previous to the amalgamation in 1930.

4. In our judgment, Section 127 could not come into operation in its entirety, in making a revaluation on amalgamation, and in fixing the annual value of amalgamated premises, so as to control the provisions contained in Sections 131 and 134, during the currency of the assessment that was in force at the time of amalgamation. The total area of land comprised in the amalgamated premises, could not be revalued on residential basis, u/s 127, on amalgamation, as the valuation made for the purpose of assessment was to remain in force for the whole of sexennial period, and the only addition that could be made was the amount that represented the annual value of the structures added to those standing on the premises before amalgamation. In the result, the appeal is dismissed with costs. The hearing-fee is assessed at two gold mohurs.

M.C. Ghose, J.

5. I agree.