

CALCUTTA HIGH COURT

The Royal Asiatic Society

Vs

Corporation of Calcutta

(Lahiri and P Mookerjee , JJ.)

26.04.1951

JUDGMENT

Lahiri, J.

1. This appeal is under Section 142 (3) of the Calcutta Municipal Act and it relates to the assessment of premises No. I/A Park Street of which the Royal Asiatic Society of Bengal is the owner. It appears that the Executive officer of the Corporation of Calcutta made a fresh valuation of the lands and "buildings of the aforesaid premises in April, 1948. The appellant filed an objection to the valuation under Section 139 of the Calcutta Municipal Act and the Deputy Executive Officer of the Corporation of Calcutta gave the appellant some relief. Against the order of the Deputy Executive Officer the appellant filed an appeal to the Small Causes Court Calcutta under the provisions of Section 141 of the Calcutta Municipal Act. The learned Judge of the Small Causes Court dismissed the appeal of the appellant on the preliminary ground that the appellant was not entitled to question the valuation which was made by the Deputy Executive Officer at the time of making a fresh valuation and the grounds for his decision are these: There was a general revaluation of the premises in question in January 1948, and at that general revaluation the annual valuation of the premises was fixed at Rs. 21600. The appellant filed an objection against that assessment under Section 139 but, upon disposal thereof by the Deputy Executive officer, did not carry the matter further by preferring an appeal to the Small Causes Court or a further appeal to this Court. The result was that the valuation made at the time of the general revaluation became final. The learned Chief Judge, Small Causes Court, Calcutta has held that as the appellant did not file any appeal against the decision of the Deputy Executive Officer at the time of the general revaluation and as the order of the Deputy Executive Officer at the time of the general revaluation had become final under sub-sections 1 . and 2 of Section 142 the appellant is precluded from questioning the valuation made by the Deputy Executive Officer in the present case. We must say that we cannot agree with the view which has been taken by the learned Small Causes Court Judge. Sub-section 1 of Section 131 of the Calcutta Municipal Act provides that the Corporation will have the right to make a general revaluation of the lands & buildings situate in several wards and that valuation will remain in force for a period of six years

but there is also a provision in that section that the Executive Officer of the Corporation of Calcutta may make a fresh valuation of the lands and buildings in each ward during the currency of the period of six years. In the present case, shortly after the general revaluation had been made, the Executive Officer chose to make a fresh valuation of the lands and buildings and the appellant filed an objection to this fresh valuation under the provisions of Section 139 of the Calcutta Municipal Act. This he was entitled to do under sub-section 1 of Section 139 which provides that:

"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."Section 140 of the Calcutta Municipal Act provides that such objection shall be entered in a register and the Deputy Executive Officer shall hear the objections in the presence of the objector and when the objection has been determined the order passed shall be recorded in the register together with the date of such order. The learned Small Causes Court Judge has relied upon the provisions of sub-sections 1 and 2 of Section 142 which provide that every valuation made by the Executive Officer under Section 131 shall, subject to the provisions of Sections 139, 140 and 141, be final and that every order passed by the Executive Officer or the Deputy Executive Officer under Section 140 shall, subject to the provisions of Section 141, be final. According to the learned Judge the finality which attaches to the general revaluation remains in force even after a fresh valuation has been made under Section 131. We do not think that this view is correct. In our opinion, the finality referred to in subsections 1 and 2 of Section 142 remains in force only so long as the valuation in question remains in force. If by an act of the Corporation authorities the valuation arrived at on a previous occasion is revised in any manner contemplated by Section 131 it gives rise to Sections new cause of action and the assessee acquires a fresh right to file objections under Section 139 and becomes entitled to all the reliefs which are contemplated by Sections 140 and 141 and 142. The learned- Small Cause Court Judge was not therefore, in our opinion, right in dismissing the appeal on the preliminary ground that the appellant is not entitled to reagitate the matter which it failed to agitate at the time of the general revaluation. As the learned Judge has not recorded any finding upon the merits of the appellant's case we have no option but to set aside his decision and remand the case to him for a consideration upon the merits.

2. The appeal is accordingly allowed. The judgment of the Small Cause Court Judge is set aside and the case sent back to him to be dealt with in accordance with law. The appellant is entitled to the costs of this appeal, hearing-fee being assessed three gold mohurs.