

19.09.2025
Sl. No. 13
Ct No. 3
SG

WPA 22376 of 2025

**Legacy of Bhojraj (P) Ltd.
Vs
The Kolkata Municipal Corporation & Ors.**

Mr. Suddhasatva Banerjee,
Mr. Chandrachur Chatterjee,
Ms. Rubab Fatma.

...for the petitioner

Mr. Alak Kr. Ghosh,
Ms. Manisha Nath.

...for KMC

1. Affidavit-of-service is taken on record.
2. The present writ petition has been filed by the petitioner challenging the recovery proceedings initiated by respondent-Kolkata Municipal Corporation on 27.05.2025 in respect of the alleged arrears of property tax pertaining to premises no. 81A, Motilal Nehru Road, Kolkata. In pursuance of the said proceedings, the respondent-Corporation attached the movable property lying in the said premises, which belongs to the petitioner, who claims to be a sub tenant.
3. The case of the petitioner is that the private respondent no. 5 is the owner/ landlord of the premises in question. Private respondent no. 6 is the tenant under the said landlord. The petitioner entered into a sub lessee tenancy agreement dated 07.07.2024 with respondent no. 6 in respect of the said premises for use as a office cum

warehouse at monthly rent of Rs.1,500/-. On 27.05.2025 officials of the respondent-Corporation attached the movable goods lying within the premises and prepared an inventory thereof. Padlock has been affixed on the outer door of the premises. The notice pasted in the premises discloses that the attachment was carried out for recovery of arrears of property tax for the period 1994 to 2023. Despite representation made by the petitioner seeking release of his goods, the respondent-Corporation has not taken any steps, thereby compelling the petitioner to invoke writ jurisdiction of this Court.

4. Learned Counsel for the petitioner states that the petitioner is a sub tenant and in terms of Section 220 sub-clause (2) of the Kolkata Municipal Corporation Act he is not the person who is primarily liable to pay the property tax. He has relied on the judgments passed by this Court in ***Calcutta Municipal Corporation & Ors. vs. Abdul Halim Gaznavi Molla & Ors.*** reported as **1998 SCC OnLine Cal 117** as well as ***Machinnon Machenzie & Co. Ltd. vs. The Calcutta Municipal Corporation & Ors.*** reported as **1998 SCC OnLine Cal 194**.

5. Learned Counsel for the petitioner has impressed upon this Court to advance his argument to the extent that the person who is primarily liable for payment of property tax is either the owner or the occupier and the said liability cannot be affixed on the sub tenant. He

states that at best in terms of the settled law the respondent-Corporation is liable to attach the rent of the petitioner but under no circumstances can the movable goods of the petitioner be attached.

6. This Court has heard the learned Counsel for the parties and has perused the materials on record. In the present case the action of the respondent-Corporation in sealing premises and attaching the movable asset of the petitioner who is admittedly not the owner prima facie seems to be wholly without jurisdiction and is unsustainable in law.

7. Accordingly, the petitioner is allowed to remove his movable properties and the respondent-Corporation

8. shall forthwith release the movable goods of the petitioner by opening the padlock affixed on the premises tomorrow at 11 AM. The padlock shall be kept open from 11 AM to 5 PM on 20.09.2025 and also the next day i.e. 21.09.2025 from 11 AM to 5 PM to enable the petitioner to remove his goods from the premises. After the goods are removed, the respondent-Corporation shall be at liberty to reseal the premises in accordance with law for securing its claim against landlord/ occupier but without disturbing the belongings of the petitioner.

9. Learned Counsel for the respondent-KMC seeks and is granted four weeks time to file his affidavit-in-

opposition. Reply thereto, if any, be filed within two weeks thereafter.

10. List this matter on 21.11.2025.

(Gaurang Kanth, J.)