(2012) 02 GUJ CK 0032

In the Gujarat High Court

Case No : First Appeal No. 359 of 2003

Ahmedabad Municipal Corp. APPELLANT

Vs

HOtel Sarita RESPONDENT

Date of Decision : 16-02-2012

Acts Referred:

Citation : (2012) 02 GUJ CK 0032

Hon'ble Judges : C.L. Soni, J;Akil Abdul Hamid Kureshi, J

Bench : Division Bench

Advocate : Jirga D. Jhaveri, for the Appellant;

Final Decision : Allowed

Judgement

Honourable Mr. Justice Akil Kureshi

1. This appeal is directed against the judgment of the Small Causes Court, Ahmedabad dated 21st December, 2000 passed in Municipal Valuation Appeal No. 1901 of 1998.

2. For the Assessment Year 1996-97, the Municipal Authorities raised property bill against the respondent herein on the basis of Gross Rateable Value ["GRV" for short] at Rs. 1,33,510.00. The tenant-occupier who was responsible to pay such bills filed appeal before the Small Causes Court contending that the GRV was fixed arbitrarily and was excessive. The Small Causes Court, by the impugned judgment, allowed the appeal and reduced the GRV to Rs. 45,660.00. This was on the basis that the appellant had produced receipt of rent of Rs. 2,500.00 for the property in question. Accepting such rent receipt, the learned Judge came to the conclusion that the yearly return of the property should be estimated at Rs. 30,000.00. Thereafter, applying the ratio of the decision of Full Bench of this Court in case of Municipal Corporation of the City of Ahmedabad v Canara Bank, reported in 1992(2) GLR 1087, the learned Judge computed GRV at Rs. 45,660.00 per year. Though no separate computation was recorded in the impugned judgment, presumably such figure would have been worked out by

adding liability to pay tax which was admittedly on the head of the tenant-occupier.

3. The learned Counsel Ms. Jirga D. Jhaveri for the appellant Municipal Corporation submitted that the Small Causes Court erred in disturbing the GRV fixed by the Corporation which was on correct basis. She submitted that without adequate proof, such GRV was disturbed.

4. Though served, no one appeared for the respondents.

5. From the available material on record, we notice that before the Small Causes Court, only xerox copy of the receipt of rent of Rs. 2,500.00 allegedly paid was produced. Such document was neither proved nor exhibited. Entire basis for reducing the GRV by the Small Causes Court was the acceptance of such rent receipt. It is on this basis that the Small Causes Court concluded that the property could be expected to fetch the rent of Rs. 30,000.00 per year for the landlord.

6. In view of the fact that such rent receipt was not proved and exhibited, in our opinion, the Small Causes Court committed serious error in placing heavy reliance rent receipt. On this sole basis, entire G.R.V. Was revised.

7. Additionally, we also find that the appellate officer of the Municipal Corporation had while confirming GRV at Rs. 1,33,510.00, taken into account various factors including rent of the property paid by the tenant to landlord being Rs. 2500.00 per month. He however fixed the GRV while observing that the property in question is being used as hotel, constructed area is 366.40 square meters etc.

8. In the result, this appeal is allowed with costs. The impugned judgment of the Small Causes Court, Ahmedabad dated 21st December, 2000 passed in Municipal Valuation Appeal No. 1901 of 1998 is set aside. Said appeal stands disposed of. R&P be transmitted to the trial Court.