

(2012) 06 GUJ CK 0049
In the Gujarat High Court

Case No : Civil Application No. 986 of 2003 In First Appeal No. 380 of 2003

Ahmedabad Municipal Corp

APPELLANT

Vs

Pathikbhai Bhupendrabhai Shah

RESPONDENT

Date of Decision : 11-06-2012

Acts Referred:

Citation : (2012) 06 GUJ CK 0049

Hon'ble Judges : Jayant M. Patel, J;C.L. Soni, J

Bench : Division Bench

Advocate : Jirga D. Jhaveris, for the Appellant; PJ Davawala for Defendant(s) :
1, for the Respondent

Final Decision : Dismissed

Judgement

Honourable Mr. Justice Jayant Patel

1. Present appeal arises from the judgment and order dated 2.2.2001 passed by the learned Judge, Small Cause Court No. 7, Ahmedabad in Municipal Valuation Appeal No. 1902 of 1997 whereby the Gross Rateable Value [GRV] of the premises was fixed at Rs. 4386.00 for the year 1996-97. The relevant facts are that the respondent is a tenant of the premises bearing M.C. No. 855-85-4, Sur. No. 15/B/285/4 of Ward Sherkotda. As per the respondent, the actual rent of the premises was Rs. 250.00 per month and the rent note was also executed by the landlord. However, the Corporation made the assessment of the premises initially at the rate of Rs. 21,916/- against which the appeal was preferred before the appellate officer but the said appeal was not accepted against which the respondent preferred appeal being MVA No. 1902 of 1997 before the Small Cause Court. The learned Judge ultimately passed the impugned judgment. Hence the present appeal before this Court.

2. We have heard Ms. Jirga Jhaveri, learned counsel for the appellant and Ms. Davawala, learned counsel for the respondent. We have considered the R&P.

3. It is not the case of the Corporation that the rent of the premises was not

fixed at Rs. 250.00 per month at the relevant point of time nor it is the case of the Corporation that the rent note was executed by the landlord and the tenant in order to reduce the liability of tax or is not genuine. If the actual rent of the premises is Rs. 250.00 per month, in our view, same is required to be taken into consideration unless there is any cogent and reliable material available to show that the contract for giving the premises on rent is not genuine or that there are other valid circumstances known to law showing the actual rent otherwise. No evidence was produced before the lower court. Rent note was produced. No evidence was led to show that the rent note was not genuine or otherwise nor any witness was examined before the lower court to show that the actual rent was otherwise.

4. Under the circumstances, the learned Judge has fixed the GRV on the basis of the actual rent of the premises and such cannot be said to be an error which may call for interference in the appeal. Hence this appeal is meritless. Therefore, appeal is dismissed. In view of the order passed in First Appeal, Civil Application would not survive and shall stand disposed of accordingly.