
(2014) 03 GUJ CK 0084
In the Gujarat High Court
Case No : First Appeal No. 4629 of 2006

Ahmedabad Municipal Corpo.

APPELLANT

Vs

M/s. Nippon Polymers Pvt. Ltd.

RESPONDENT

Date of Decision : 07-03-2014

Acts Referred:

Bombay Provincial Municipal Corporations Act, 1949 — Section 411

Citation : (2014) 03 GUJ CK 0084

Hon'ble Judges : R.P. Dholaria, J;M.R. Shah, J

Bench : Division Bench

Advocate : Jirga D. Jhaveri, No. 1, for the Appellant;

Judgement

M.R. Shah, J.—Present appeal u/s 411 of the Bombay Provincial Municipal Corporation Act, 1949 has been preferred by the appellant-original respondent-Ahmedabad Municipal Corporation challenging the impugned judgment and order dated 30.08.2000 passed by the learned Small Causes Court at Ahmedabad in Municipal Valuation Appeal No. 6054 of 1995 by which the learned Appellate Court has partly allowed the said appeal preferred by the respondent herein and reduced the G.R.V. of the premises in question to Rs. 33,090/- for the year 1994-1995. The dispute is with respect to the property bearing Survey No. 0006, Plot No. 9991-0051-00-000 situated in ward-Special Property N.R. The Assessing Officer of the Corporation has fixed the G.R.V. of the premises in question at Rs. 57,773/- for the year 1994-1995. Being aggrieved and dissatisfied with the fixation of the GRV of the premises in question at Rs. 57,773/-, the respondent herein preferred an appeal before the learned Small Causes Court at Ahmedabad and relying upon the valuer's report at Mark 14/1, which was not even produced before the First Assessing Officer and it was produced before the Appellate Court for the first time and even the same was not duly proved and exhibited by the learned Appellate Court, by impugned judgment and order, the learned Small Causes Court at Ahmedabad has partly allowed the said appeal and fixed the G.R.V. of the premises in question at Rs. 33,090/- for the year 1994-1995 in

place of Rs. 57,773/- as fixed/determined by the Assessing Officer.

2. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the learned Small Causes Court at Ahmedabad, the appellant has preferred present appeal u/s. 411 of the B.P.M.C. Act.

3. Ms. Jirga Jhaveri, learned advocate appearing on behalf of the appellant has vehemently submitted that the learned Appellate Court has determined the GRV of the premises in question at Rs. 33,090/- considering the valuer's report, which was not even produced before the first Assessing Officer and it was produced before the learned Appellate Court for the first time and even the same was not duly proved and exhibited. Relying upon the decision of the Division Bench of this Court in case of A"Bad Municipal Corporation Vs. Dena Bank, it is submitted that the learned Appellate Court ought not to have fixed/determined the G.R.V. of the premises in question at Rs. 33,090/- for the year 1994-1995 in place of Rs. 57,773/- as fixed/determined by the Assessing Officer, relying on the valuer's report which was neither produced before the Assessing Officer nor even exhibited by the learned Appellate Court.

4. Though served, nobody has appeared on behalf of the respondent.

5. Having heard Ms. Jhaveri, learned advocate appearing on behalf of the appellant and considering the impugned judgment and order passed by the learned Appellate Court, it appears that by the impugned judgment and order the learned Appellate Court has fixed the GRV of the premises in question at Rs. 33,090/- for the year 1994-1995 considering the valuer's report, which was neither produced before the first Assessing Authority nor even exhibited by the learned Appellate Court. As observed by the Division Bench of this Court in the case of Dena Bank (Supra), in an appeal to the Court against fixation of Annual Letting Value, the documents not produced before the Assessment Authority cannot be produced unless Court permits additional evidence and that the documents cannot be exhibited without following the procedure for proving the same. Under the circumstances, fixation of the GRV of the premises in question at Rs. 33,090/- for the year 1994-1995 by the Appellate Court cannot be sustained. In view of the aforesaid facts and circumstances and for the reasons stated hereinabove and considering the decision of the Division Bench of this Court in the case of Dena Bank (Supra), present appeal succeeds. The impugned judgment and order dated 30.08.2000 passed by the learned Small Causes Court at Ahmedabad in Municipal Valuation Appeal No. 6054 of 1995 is hereby quashed and set aside and the matter is remanded to the learned Appellate Court to decide the same in accordance with law and on merits and considering the observations made hereinabove and the law laid down by the Division Bench of this Court in the case of Dena Bank (Supra). Considering the facts and circumstances of the case, there shall be no order as to costs.

Registry is directed to return the Record & Proceedings of the case to the learned trial Court forthwith.