(1988) 07 P&H CK 0070

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 2498 of 1988 (O and M)

Atma Singh and Others APPELLANT

Vs

State of Punjab and Others RESPONDENT

Date of Decision : 26-07-1988

Acts Referred:
Punjab Municipal Act, 1911 — Section 63, 64, 65, 66, 67

Citation : (1989) 1 ILR (P&H) 14

Hon'ble Judges : M.M. Punchhi, J;Amarjeet Chaudhary, J

Bench : Division Bench

Advocate : Gurnam Singh, for the Appellant; S.S. Saroan, A.A.G. for Respondents 1 and 2 and A.N. Mittal, for Respondents 3 and 4, for the Respondent

Final Decision : Allowed

Judgement

M.M. Punchhi, J.—This writ petition is on behalf of 141 property owners of Mandi Gobindgarh, challenging the entire process of enhancing house-tax within the municipal area of Mandi Gobindgarh.

2. We would not burden this order with unnecessary details. Suffice it to mention that the properties of the Petitioners were being assessed to house-tax prior to the year 1988. It can be assumed that those were on the basis of an assessment list maintained by the Municipal Committee. It appears that all of a sudden the Committee decided to prepare a fresh assessment list u/s 63 of the Punjab Municipal Act, 1911 (for short, the Act). That provision initiates the procedure for assessing immovable property. Thereunder the Committee shall cause an assessment list of all buildings and lands on which any tax is imposed to be prepared containing the particulars mentioned therein. After the preparation of the list, a public notice thereof is required to be given u/s 64 of the Act. Every person claiming to be either the owner or occupier of the property included in the list is at liberty to inspect the list and make extracts therefrom without charge. u/s 65 a public notice is to be given of a time not less than one month thereafter

when it will proceed to revise the valuation and assessment. The objections to the valuation and assessment are required to be made in writing before the time fixed, orally or in writing at the time of revising the assessment list. u/s 66 the list is settled after objections have been enquired into. Section 67 prescribes (further amendments of assessment list and in that case individual notices have to be served on all persons affected by the amendment. These are the broad provisions which are applicable when preparation or revision of an assessment list is made.

3. The grouse of the Petitioners is that Mandi Gobindgarh is an urban area to which the provisions of the East Punjab Urban Rent Restriction Act are applicable. Their grouse is that the assessments have been revised uniformally five to six times without taking into account the rental values of the buildings in accordance with the provisions of the East Punjab Urban Rent Restriction Act as also without going into the question as to whether there was any alteration or re-erection of buildings.

4. It is not denied by the committee that the entire assessment has been overhauled. Rather in its return the supporting evidence goes to show that the Committee was oblivious of the provisions of the East Punjab Urban Rent Restriction Act, its applicability to tenanted buildings and other buildings which were self-occupied. Annexure R-4/2 is a copy of order No. 309, dated 4th November, 1987. Thereunder orders were obtained from the Administrator approving exercise to be undertaken under Sections 63 to 67 of the Act for survey and preparation of the assessment lists, so that necessary steps be taken before 31st March, 1988. On 8th January, 1988,--wide order Annexure R-4/3 the assessment lists prepared by the staff Under Sections 63/64 of the Act were approved, and obviously ex parte. Cover was sought to be taken under the provisions of Section 65 as these lists were to be thrown open to general public and notices in that regard issued. These notices had to be decided before 31st January, 1988 as given out in the office order so that the tax could be recovered for the year 1988-89. This was incumbent under the provisions of Section 66 of the Act, for the tax could be imposed with effect from the first day of January or the first day of April next ensuing. 1st April being close-by, the Administrator on 8th January, 1988, as said before, was keen in having the process completed on 31st August, 1988.

5. Then followed the notice Annexure R-4/4 on 14th January, 1988 purporting to be under Sections 63 and 66 of the Act, that is to say, for preparation of assessment list and the settlement of list simultaneously. It was given out that the completed and approved assessment list for the year 1988-89 could be inspected in the office of the Municipal Committee during office hours. Surprisingly no public notice at that juncture was given. Even if we accept the oral assertion of the learned Counsel for the Committee that this notice was meant to be under Sections 63 and 64 of the Act or even u/s 65 of the Act and not u/s 66, public notice of a time not less than one month thereafter had to be

given before any legally conclusive measures could be taken. 30 days from 14th January, 1988 expired in February 1988 and the entire exercise to have the tax imposed with effect froth 1st April, 1988, would have feinted in a fiasco. That was the reason why the provisions of Sections 64 and 65 were given a go by and straightaway Section 66 was resorted to. Under that cover individual notices were issued to the writ Petitioners in the form of Annexure R-4/5 on 9th February, 1988, suggesting raising of objections within 30 days against the valuation and if no objections were to be attracted, the proposed finalisation and the amount of tax payable was simultaneously mentioned therein. So the invitation to objections were tagged with the demand of tax; a procedure unknown to law.

6. As said before, we would not elaborate any further The entire process adopted by the Municipal Committee was hurried, hasty, slip-shod, and with the sole aim of raising its revenue, throwing to winds all the safeguards provided in the Act under the provisions of Sections 63 to 67. Without the slightest hestitation we quash the entire process, leaving it open to the Committee in future to take any steps known to law. This petition is accordingly allowed in limine with costs. The Petitioners tax payers will get Its. 5,000 as costs, payable by the Committee.

