

(2000) 11 SC CK 0062
In the Supreme Court Of India
Case No : Civil Appeal No: 4076 of 1992

G.P.S. Nayar

APPELLANT

Vs

Corpn. of Trivandrum and Another

RESPONDENT

Date of Decision : 09-11-2000

Acts Referred:

Kerala Municipal Corporations Act, 1961 Sec 417

Citation : (2003) 9 SCC 249

Hon'ble Judges : V. N. Khare, J; S. N. Phukan, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

V.N. Khare and; S.N. Phukan, JJ.-The property in the present case is the palace owned by the Maharaja of Travancore and the same was let out to a partnership firm Hotel Tara consisting of two partners, one of whom is wife of the Maharaja at a monthly rent of Rs 1000.

2. The respondent Corporation amended the property tax in respect of the said palace and on an application being filed by the appellant seeking revision of the tax, the Commissioner of the respondent Corporation reduced the annual rental value by fixing it at Rs 2,37,000. The appellant filed an appeal before the Administrator who directed fresh assessment. This was done by the Commissioner after local inspection and rental value was reduced to Rs 1,90,000 and the tax for the years 1973-74 to 1977-78 was assessed. The appellant filed a suit against the above order of assessment and the trial court upheld the assessment of property tax but held that demand notice relating to period till 1976-77 was barred by limitation in view of Section 417 of the Kerala Municipal Corporations Act. The appellant filed an appeal against the above decree and a cross-appeal was filed by the Corporation. Both the appeals filed by the parties were disposed of by the impugned judgment. The High Court allowed the appeal of the Corporation and consequently the suit filed stood dismissed by the impugned judgment. It is against the said judgment the appellant has preferred

this appeal.

3. Learned counsel for the appellant has raised two contentions. One of the contentions is that the rent of the palace being Rs 1000 p.m., the annual value of the palace was wrongly assessed as Rs 1,90,000. According to him, the annual value should be in the terms of the rent received by the landlord. This argument totally lacks merit. In the present case, the entire palace has been let out. The plinth area of the palace is 4590 sq m and the total land leased out was 3.69 acres. The landlord has let out the palace to the firm which is owned by the members of his family.

4. Under the Act, determining the annual value of the building is the rent for which the land and the building might reasonably be expected to be let out and not on the rent on which it is let out. If the landlord chooses to let out for a meagre sum, in that case it cannot be said that the annual value of the building is the rent on which the building has been let out. We, therefore, find no merit in the argument of the learned counsel for the appellant. The Corporation, in fact, passed the assessment order after making local inspection by the Commissioner. Therefore, the order of assessment cannot be faulted.

5. Learned counsel then urged that demand of property tax for the years 1973-74 to 1976-77 was barred by time and therefore, the view taken by the High Court is erroneous. On the facts of the case, the High Court rightly took the view that in view of revision and the appeal, the Corporation could not take any action to recover the tax on the basis of the assessment. As stated above the original assessment was modified in revision which was set aside by the Administrator and, thereafter, fresh tax was assessed. Immediately after fresh assessment, the suit was filed. Therefore, it cannot be said that assessment order was barred by time.

6. The appeal has no merit and is dismissed. Cost on the parties.