(1987) 04 DEL CK 0038

In the Delhi High Court

Case No : Civil Miscellaneous (Main) Appeal No. 248 of 1973

Gurmauj Saran Baluja APPELLANT

Vs

Delhi Municipal Corporation RESPONDENT

Date of Decision : 27-04-1987

Acts Referred:

Citation : (1987) 32 DLT 206 : (1987) 13 DRJ 195

Hon'ble Judges : Sunanda Bhandare, J

Bench : Single Bench

Advocate : S. Bhardwaj and Randhir Jain, for the Appellant;

Judgement

Sunanda Bhandare, J.

(1) In this petition under article 227 of the Constitution of India the petitioner has challenged the bill/demand dated 16th August 1973 issued by the Delhi Municipal Corporation for the asst. year 1973-74 on the ground that no notice as required u/s 126(2) of the Delhi Municipal Corporation Act was issued to the petitioner though the rateable of the property in question was proposed to be enhanced.

(2) It is contended by the learned counsel for the petitioner that previous to this asst. year 1973-74, for the asst. year 1967-68 the annual letting value of the property was fixed at Rs. 5400 and Rs. 675 was levied as tax for that assessment year, however for the asst. year 1973-74 i.e. the period in question the petitioner was being charged Rs. 929.40 as property tax because the annual letting value was fixed at Rs. 6480. Learned counsel submitted that no notice was issued to the petitioner and, Therefore, the petitioner was unable to bring to the notice of the respondent that the proposed assessment was not according to law.

(3) No counter-affidavit has been filed to the petition, however at the hearing of the case, learned counsel for the respondent submitted that though the record shows that notice was issued to the petitioner, there is nothing on record to

indicate that the notice was served on the petitioner. Learned counsel fairly stated that Section 126(2) of the Delhi Municipal Corporation Act requires the respondent to give hearing to a party before the annual letting value is increased,

(4) In view of this position, on this ground alone the petition deserves to be allowed.

(5) In the result, the petition is allowed. The impugned bill/demand 16th August 1973 (Annexure 1) is quashed, however the respondent is directed to make a fresh assessment after hearing the petitioner. Since both the parties are represented in this Court, no fresh notice be issued to the petitioner, however the petitioner will appear before the Assistant Assessor & Collector, Municipal Corporation of Delhi, West Zone, Delhi on 18th May 1987. The assessing authority is directed to make a fresh assessment according to law. Needless to say that if the petitioner has made any excess payment, he will be given necessary adjustment for that amount. No costs.