(1982) 10 KAR CK 0006

In the Karnataka High Court

Case No : WP. 19898/80

Jayadeva B.N. APPELLANT

Vs

Commr. Corpn. of Bangalore and Another RESPONDENT

Date of Decision : 05-10-1982

Acts Referred:

Citation : (1983) 1 KarLJ 240

Hon'ble Judges : M. P. Chandrakantharaj Urs, J

Judgement

1. This writ petition is directed against the demand notice issued by the Corporation of the City of Bangalore under R. 9 of Sch. III of S. 117 of the Karnataka Municipal Corporations Act, 1976, (hereinafter referred to as the Act). By the impugned notice, the respondents have demanded house tax in the sum of Rs. 4688-52 per annum with effect from 1-10-1978. The petitioner on receipt of the notice, wrote to the Commissioner seeking details as to the basis of assessment of the tax at an enhanced rate. But no reply was received thereto. However, an intimation dt. 19-10-1980 at Annexure C was issued claiming as arrears of house tax a sum of Rs. 9713-04 for the years 1978-79 and 1979-80.

2. It is contended for the petitioner that the demand made is not in accordance with the procedure prescribed for revision of assessment of a building already assessed. Under Sch. III of Part I of the Act, Taxation Rules are to be found. In Part II of Sch. III, assessment of property tax is dealt with. R. 8 found in Part II of Sch. II to the Act provides for Commissioner issuing notice to parties concerned and hearing their objections, if any, amend the property tax assessment books at any time between one general revision and another by inserting therein or removing therefrom any property or by altering the valuation of any property or the amount of tax.

3. The impugned notice which is at Annexure-A to the petition does not purport to be one issued under general revision. Therefore, it must be presumed that the impugned notice relates to a revision between two general revisions. Viewed thus, the contention that the notice now issued under R. 9 of the Rules, which

should follow after the enquiry contemplated under R. 8 of the Rules, is clearly impermissible in law and therefore without jurisdiction.

4. The learned Counsel appearing for the respondents does not dispute this position in law. Therefore, the petitioner must succeed and the impugned notice is liable to be quashed and consequently the demand notice at AnnexureC also requires to be quashed and it is so quashed.

5. However, liberty is reserved tothe respondents to issue fresh notice to the petitioner in accordance with law and thereafter revise the tax in respect of the building owned by the petitioner.

6. Rule will accordingly issue and be made absolute.

7. This writ petition is disposed of at the stage of preliminary hearing after notice to respondents and after hearing the Counsel for parties.

8. There will be no order as to costs.