

(1996) 09 DEL CK 0059

In the Delhi High Court

Case No : Civil Writ Appeal No. 1257 of 1981

J.P. Gupta

APPELLANT

Vs

New Delhi Municipal Committee

RESPONDENT

Date of Decision : 13-09-1996

Acts Referred:

Punjab Municipal Act, 1911 — Section 85(1)

Citation : (1996) 5 AD 78 : (1996) 64 DLT 425

Hon'ble Judges : S.N. Kapoor, J; R.C. Lahoti, J

Bench : Division Bench

Advocate : Naveen Chawla, for the Appellant;

Judgement

S.N. Kapoor, J.

(1) The petitioner challenges "various orders and resolutions of the Committee right from 1.4.1976 till 1.4.1981 fixing rateable value Rs. 23,976.00 " and seeks mandamus commanding Ndmc charge the house tax calculated at the standard rate of Rs. 7,021.00 less 10% and further less 25%.

(2) According to the petitioner, he purchased flat No. 307, Surya Kiran Building, 19, K.G. Marg, New Delhi for a sum of Rs. 81,400.00 full cost of the land of the share of the petitioner, in 1971-72. For the year 1972-73 rateable value was fixed at Rs. 19,980.00 less 10% Ndmc proposed revision to Rs. 26,640.00 . The petitioner filed objection. But rateable value was fixed at Rs. 23,974.00 . Repeated objections and protests proved futile. The committee vide notice dated 2.1.1981 demanded a sum of Rs. 11,949,30.00 being arrears up to the year 1980-81 vide Annexure-H. Feeling aggrieved present petition has been filed seeking above said reliefs.

(3) The respondent Ndmc have contested the writ petition inter alias on the ground that petitioner has no locus standi as the property has been assessed in the name of M/s. Jepson ADVERTISORS. Assessment of the year 1976 is sought to be challenged, it is belated and the assessment has been final. Equally

efficacious remedy of appeal has not been availed. As the assessed failed to assess cost of construction and value of the land and documents in support thereof assessment could not be made.

(4) We heard learned Counsel for the respondent. Learned Counsel for the petitioner did not appear despite the fact that the matter has been listed with a note in the cause list that the matter being old shall be heard without entertaining any prayer for adjournment. As such we are neither inclined to adjourn nor to dismiss the petition in default of appearance and proceed to decide the matter on merits.

(5) Having heard the learned Counsel for the respondent and perused the record we feel that petition suffers not only one but several defects as pleaded by the NDMC.

(6) It is only in the rejoinder the petitioner claimed to be the sole proprietor of M/s. Jepsons Advertisers, without disputing that the property is assessed in the name of M/s. Jepsons Advertisers. Nothing is being shown to indicate that it is sole proprietorship concern. If it is and it was so why the property was got recorded in the name of the firm? There does not appear any plausible Explanation for the same.

(7) It is not possible to entertain a writ filed on 9.5.1981 for the purpose of setting aside the resolutions of assessment from 1.4.1976 till 1.4.1986. This Court is not supposed to assist the tardy and the indolent or the acquiescent and the lethargic. The delay is of not of months or weeks but of years and no plausible Explanation whatsoever is being given. It has been held that ordinarily the statutory period of limitation provided should be respected and the Court must not ignore and trample under foot all laws of procedure, evidence limitation res judicata and the (see State of M.P. and Others Vs. Nandlal Jaiswal and Others, and Tilokchand and Motichand and Others Vs. H.B. Munshi and Another, . Repeated representations are also of no avail (see State of Orissa Vs. Pyarimohan Samantaray and Others, ; State of Orissa and Others Vs. Shri Arun Kumar Patnaik and Others,). Even if one takes into consideration Annexure "H" last bill for recovery of Rs. 11,949.70 paise it is dated 2.1.1981. An appeal could be filed within 30 days u/s 85(1) of the P.M. Act. That period has expired. As such one has to say that there was unexplained unreasonable delay in filing the writ.

(8) As locus standi is in dispute there is delay, and alternative efficacious remedy has not been availed, we feel that this writ should not be entertained, to consider stale claims. Accordingly, the writ petition is dismissed.

(9) Parties are left to bear their own costs.