(1974) 01 P&H CK 0008

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ No. 1254 of 1968

Kidar Nath and anothers APPELLANT

Vs

Municipal Committee, Ludhiana and other RESPONDENT

Date of Decision : 10-01-1974

Acts Referred:

Citation : (1974) 01 P&H CK 0008

Hon'ble Judges : Bal Raj Tuli, J

Bench : Single Bench

Advocate : H.L. Sarin, with Mr. M.L. Sarin, for the Appellant; Y.P. Gandhi, for the Respondent

Final Decision : Dismissed

Judgement

Bal Raj Tuli, J.—This petition was filed by five petitioners challenging the imposition of house-tax by the Municipal Committee, Ludhiana, on their respective houses. An objection has been raised in the written statement that one joint petition on behalf of five petitioners is net competent since there were separate assessments in the cases of individual petitioners and separate orders were passed. Each petitioner was issued a separate notice. The annual letting value of each house was also different. In view of this objection, which is quite weighty, the learned counsel for the petitioners confines this petition only to petitioner No. 1, Kidar Nath, and withdraws the petition on behalf of the other petitioners.

2. Kidar Nath is the owner of house No. BV/980 in the city of Ludhiana where the East Punjab Urban Rent Restriction Act (herein-sfter called the Act) is in force. For the year 1965-66 the Municipal Committee assessed the annual letting value of that house at Rs. 300/- and imposed house tax of Rs. 21.60 Paise. The same value was adopted for the year 1966-67, but for the year 1967 68 the annual letting value of the house was increased to Rs. 840/- and house tax was imposed on that amount. The petitioner filed an appeal before the Deputy Commissioner which was rejected on October 17, 1967. The present petition has been filed

against the order of the Municipal Committee, Ludhiana, enhancing the annual letting value of the house and the order of the Deputy Commissioner, Ludhiana dismissing the appeal.

3. Written statement has been filed on behalf of the Municipal Committee. Ludhiana justifying the enhancement of the annual Setting value of the house and the imposition of tax on that basis. The short point argued by the learned counsel far the petitioner is that Since the Act is applicable to all properties in the city of Ludhiana, the Municipal Committee had to determine the annual letting value in accordance with the provision of that Act Reliance has been placed for this submission on the judgments of their Lordships of the Supreme Court in. The Corporation of Calcutta Vs. Sm. Padma Debi and Others, , and The Guntur Municipal Council Vs. The Guntur Town Rate Payers'' Association etc., . In the latter judgment, the learned Judges observed:--

It is urged that so long as the fair rent of a building or premises is not fixed the assessment of valuation by a municipality need not be limited or governed by the measure provided by the provisions of the Act for determination of fair rent. Logically such buildings or premises as are not let out to a tenant and are in the self-occupation of the landlords would also fall within the same principle if no fair rent has even been fixed in respect of them.

We are unable to agree that on the language of section 82(2) of the Municipalities Act any distinction can be made between buildings the fair rent of which has teen actually filed by the Controller and those in respect of which no such rent has been fixed is perfectly clear that the landlord cannot lawfully expect to get more rent than the fair rent which is payable in accordance with the principles laid down in the Act. The assessment of valuation must take into account the measure of fair rent as determinable under the Act. It may be that where the Controller has not fixed the fair rent the municipal authorities will have to arrive at their own figure of fair rent but that can be done without any difficulty by keeping in view the principles laid down in section 4 of the Act for determination of fair rent. This would of course be with regard to the assessment of valuation for the period subsequent to the coming into force of the Act For the prior period, it would be the rent Act in force curing the year of assessment in the light of the provisions of which the figure of the fair rent would have to be determined and assessment made accordingly.

4. The principles on which fair rent is to be determined are Hid town in section 4 of the Act. Evidently, the annual letting value of the house of the petitioner has not been determined on that basis. The order of the Deputy Commissioner shows that the consideration was the accommodation available in the house, that is, 9 rooms, a kitchen and a bath-room. According to the judgments of the Supreme Court, the accommodation is of no importance nor is, it relevant what relevant is the reasonable rent on which the premises can be expected to be let out in case the owner is willing to let them cut. In the places where the Kent Restriction Act is in force the rent of such a building cannot be in excess of the fair rent as

determined under the Act. 1, therefore, accept this writ petition and quash the orders of the Municipal Committee and the Deputy Commissioner fixing the annual letting value of petitioner''s house at Rs. 840/- per annum and the imposition of house tax on that basis The Municipal Committee will be at liberty to determine the annual letting value of the said house for the year 1967-68 in accordance with the Rent Restriction Act in force in that ear. The writ petition in respect of the other petitioners is dismissed as withdrawn and the parties are left to bear their own costs.

