(2021) 08 DEL CK 0043

In the Delhi High Court

Case No : Civil Writ Petition No. 7829 Of 2021

Manju Jain APPELLANT

Vs

New Delhi Municipal Council RESPONDENT

Date of Decision : 09-08-2021

Acts Referred:

New Delhi Municipal Council Act, 1994 — Section 72

Citation : (2021) 08 DEL CK 0043

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : nkur Mahindro, Shresth Choudhary, Soumil Gonsalves, Sanjoli Mehrotra, Ankush Satija, Rohan Taneja, Aditya Kapur, Ashim Shridhar, Niyati Patwardhan

Final Decision : Allowed

Judgement

Sanjeev Sachdeva, J

CM APPL.24370/2021 (exemption)

Exemption is allowed subject to all just exceptions.

W.P.(C) 7829/2021 & CM APPL.24369/2021

1. The hearing was conducted through video conferencing.

2. Issue notice. Notice is accepted by learned counsel appearing for the respondent.

3. Petitioner seeks setting aside of order dated 23.03.2017 whereby an ex parte order under Section 72 of the NDMC Act has been passed enhancing

the rateable value in respect of the property of the petitioner. Petitioner further impugns demand notice dated 06.07.2021.

4. Learned counsel for the petitioner submits that petitioner was given a notice

under Section 72 of the NDMC Act on 17.01.2001 for amendment in

the assessment list for the year 2000-2001.

5. He submits that on 25.01.2001 the notice was duly replied to and objections filed. Thereafter for a period of over 10 years there was no

communication from the side of the Municipal Council and it was only in 2011 that petitioner was called for a hearing and personal hearing was

granted on 28.10.2011. Even written submissions were filed by the assessee on 31.10.2011.

6. Learned counsel further submits that again for a period of nearly six years there was complete silence from the side of the Municipal Council.

Thereafter by notice dated 10.03.2017, which was received by the assessee on 16.03.2017, assessee was required to appear before the assessing

authority on 21.03.2017 for a hearing.

7. Learned counsel points out that the hearing notice dated 10.03.2017 referred to a notice under Section 72 dated 31.03.2004.

8. Learned counsel submits that no notice under Section 72 dated 31.03.2004 were ever received by the assessee. He submits that the authorised

representative of the petitioner appeared on 21.03.2017 and requested for an adjournment on the ground that the concerned person was on leave.

9. Learned counsel further submits that the impugned assessment order dated 23.03.2017 disposes of the notice under Section 72 dated 17.01.2001 ex

parte.

10. Learned counsel submits that there is an ex facie error in the impugned order dated 23.03.2017 as the order disposes of notice dated 17.01.2001

whereas the hearing notice dated 10.03.2017 had proposed to grant a hearing with regard to notice dated 31.03.2004.

11. Learned counsel further submits that since the respondent themselves had waited for a period of over 16 years there was no necessity for the

respondents to pass the order in haste without giving an adequate opportunity to the petitioner to represent her case.

12. Learned counsel for the petitioner submits that after the receipt of the ex parte order dated 23.03.2017 petitioner has been making representations

to the respondents but to no avail.

13. Learned counsel for the respondent submits that the representation of the petitioner has been duly disposed of by order dated 02.08.2021,

however, as there is a mismatch between the notice of hearing dated 10.03.2017 and the assessment order dated 23.03.2017 with regard to the date

of the notice under Section 72 of the NDMC Act, without prejudice to the rights and contentions of the parties, one opportunity of hearing would be

granted to the petitioner to submit her case and thereafter a fresh assessment order would be passed.

14. In view of the above, the impugned order dated 23.03.2017 and the demand notice dated 06.07.2021 are accordingly set aside. The matter is

remitted to the Assessing authority to pass a fresh assessment order after giving an opportunity of hearing to the petitioner.

15. Petitioner shall file further additional objections and documents in support of the objections, if any within a period of two weeks from today.

Thereafter respondents shall intimate the date of hearing to the petitioner on which date the petitioner shall appear through her authorised

representatives. Thereafter the assessing authority shall be at liberty to pass a fresh assessment order in accordance with law.

16. Petition is allowed in the above terms.

17. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.