

**(1991) 04 MP CK 0027**  
**In the Madhya Pradesh High Court**  
**Case No : C. Rev. 347 of 1987**

Municipal Corporation, Indore

APPELLANT

Vs

Bhanwarlal Punamchand Sharma (Parashar)

RESPONDENT

**Date of Decision :** 23-04-1991

**Acts Referred:**

Madhya Pradesh Municipal Corporation Act, 1956 — Section 136

**Citation :** AIR 1992 MP 58 : (1992) JLJ 309 : (1992) 37 MPLJ 659

**Hon'ble Judges :** A.G. Qureshi, J

**Bench :** Single Bench

**Advocate :** Dhanji, for the Appellant; N.K. Sanghi, for the Respondent

**Final Decision :** Dismissed

## **Judgement**

A.G. Qureshi, J.

This revision petition is directed against the order dated 1-9-87 passed by the Sixth Addl. District Judge, to the court of District Judge, Indore in Civil Misc. Appeal No. 126 of 86, whereby the learned Additional Judge, after partially allowing the appeal, the order of the Special Assessment Authority dated 25-6-86 was partly modified and the appellant was directed to pay tax on annual letting value of Rs. 15,690/- at the rate of ten per cent, according to schedule. The Municipal Corporation Indore is aggrieved by the aforesaid order and has filed this revision.

The learned counsel for the Corporation Shri Dhanji argues that reading the provisions of Section 136 of the M.P. Municipal Corporation Act, it is clear that under the aforesaid provision certain categories of buildings enumerated therein have been exempted from the levy of the property tax. According to Shri Dhanji if the exemption is from the levy of the tax the Municipal Corporation had rightly exempted the respondent from levy of the tax to the extent of Rs. 2400/-. Therefore, the additional District Judge has erred in holding that the exemption should be on the annual letting value and not on the levy.

On the other hand Shri N.K. Sanghi argues that the order impugned is based on the correct interpretation of the provisions contained in Section 136 of the M.P. Municipal Corporation Act.

Now Section 136 of the M.P. Municipal Corporation Act speaks of exemptions, wherein it has been provided that where the property tax is levied u/s 135 of the Act, it shall not be so leviable in respect of the properties enumerated in the various clauses of this section. Here we are concerned with Clause (f) of Section 136, wherein the buildings and lands owned by widows or minors or persons subject to physical disability or mental infirmity have been rendered incapable of earning their livelihood because of the aforesaid disqualification and where the main source of maintenance of such widows or minors is the rent derived from such buildings have been exempted from tax. However, this exemption is not absolute. A proviso has been carved out wherein it has been stated that the exemption shall relate only to the first twenty four hundred rupees of the annual value of such buildings and lands. As such although the exemption is from the levy of the tax as has rightly been pointed out by Shri Dhanji, but Shri Dhanji is not correct when he argues that the ceiling is also in respect of the levy of the tax and, therefore, the ceiling will relate to the levy of the tax. Actually the section speaks of an exemption from the levy of the tax and the buildings enumerated under the Section are exempt from the levy of the tax. However, in respect of the persons falling in the category mentioned in Sub-clause (f) of Section 136 the exemption is not absolute, but is only to an upper limit of Rs. 2400/- per annum and in this context we have to see as to whether the income of Rs. 2400/- relates to levy or annual leaving value. The words are unequivocal and say that the exemption shall relate only to the first twenty four hundred rupees of the annual leaving value of such building and lands. As such there can be no manner of doubt that the exemption relates to the annual letting value of the building. Consequently while assessing the property the mode which has to be adopted for assessment is that first the whole annual letting value of the building has to be assessed and from that letting value an exemption to the extent of Rs. 2400/- has to be granted to the persons falling under clause, (f) of Section 136 and then the tax has to be assessed, on the remaining annual letting value.

Consequently in the instant case the learned Additional District Judge has rightly held that the assessing authorities should have deducted the amount of Rs. 2400/- from the annual letting value of the building and then should have applied the slab of taxation on the next assessment after such deduction. Therefore, I find no force in this revision petition. It is accordingly dismissed with no orders as to costs.