

---

**(2000) 09 DEL CK 0136**

**In the Delhi High Court**

**Case No :** Regular Second Appeal No. 4 of 1984

New Delhi Municipal Committee

APPELLANT

Vs

Dr. Ajit Singh Sabharwal and Others

RESPONDENT

---

**Date of Decision :** 15-09-2000

**Acts Referred:**

Punjab Municipal Act, 1911 — Section 84, 86

**Citation :** AIR 2001 Delhi 102 : (2001) 1 RCR(Civil) 705

**Hon'ble Judges :** Devinder Gupta, J

**Bench :** Single Bench

**Advocate :** Hima Kohli, for the Appellant;

**Final Decision :** Dismissed

---

## **Judgement**

Devinder Gupta, J.—This is second appeal preferred against the judgment and decree passed on 6-11-1982 by Shri Mahender Pal, Additional District Judge, Delhi dismissing the appeal of the appellant and thereby confirming judgment and decree passed on 18-9-1980 by Shri P. D. Jarwal, Sub Judge 1st Class, Delhi restraining the appellant from proceeding or attempting to recover house tax over and above the amount already remitted by the respondent.

2. The plaintiff/respondent alleging that property No. 21, Curzon Road, New Delhi was taken on lease hold basis by their father in 1981 filed a suit seeking decree for injunction against the appellant from proceeding to recover the house tax demand for the period from 1-7-1975 to 31-3-1976, inter alias on the following ground :--

"United Nations Development Programme (hereinafter called) as UNDP was a tenant in the main building and the plaintiffs were residing in the out houses. M/s UNDP was a tenant in the main building and the plaintiffs as annual rent of Rs. 2,70,000/- PA and the lease-deed was executed on 6-12-71. This lease was extended up to 31-12-1975. There was a clause in the lease-deed whereby the tenant could vacate the premises earlier also. The notice was received from the

defendant dated 14-1-1975 proposing assessment. In the meanwhile on 17-3-1975 M/s UNDP informed that the Government of India has decided to provide them an alternate accommodation and they have a notice of 90 days on 17-3-1975 for vacating the premises and they demanded back the rent paid from 1-7-1975 till 31-12-1975. The said rent was refunded and the building was vacated by UNDP on 30-6-1975, they also dismantled some temporary structures erected during the tenancy. The total area with them was 18,108 sq. ft. out of which an area of 2743 sq. ft. was demolished. The defendant assessed the property for 1975-76 and when being asked the plaintiffs to take note of the above facts, they were informed that the assessment for the year 1975-76 cannot be reopened in the middle of the year. However, the plaintiffs presented a cheque for Rs. 8881 - towards payment of house-tax. It is contended that the premises thereafter are self-occupied and should be assessed on the basis of the cost of construction and cost of land. The plaintiffs have themselves calculated the standard rent which come to Rs. 1,85,000/- and house-tax thereon comes to Rs. 1287/- from 1-7-1975 to 31-3-1976 which they have paid. The defendants have threatened to recover balance amount through distress measures, but the plaintiffs contend that they are not liable to pay in excess of standard rent.

3. Suit was resisted by the appellant on merits as well as taking a preliminary objection that it was barred u/s 86 of the Punjab Municipal Act, 1911 and under Specific Relief Act. The appellant alleged that it had fixed the ratable value on the basis of annual rent, which is binding on the respondents, who were duly served with the notice for the year 1975-76 and assessment was made after hearing them, which cannot be reopened. The balance of house tax had legally been imposed and was recoverable.

4. The trial court decreed the suit holding that the property had not been assessed on the basis of standard rent as laid down in *Dewan Daulat Rai Kapoor and Others Vs. New Delhi Municipal Committee and Others*, and that the suit was not barred u/s 86. It did not record any reason that why the suit was not be barred. Appeal was preferred by the appellant. The lower appellate Court went into the merits and concluded that property tax ought to have been calculated and ratable value arrived at on the basis of cost of land coupled with cost of construction, which had not been done. It was further held that as the assessment was illegal, civil court could grant the relief prayed for. Feeling aggrieved the appellant preferred this appeal, which was admitted on 25-1-1984 on substantial question of law, namely, whether civil court had jurisdiction to entertain the suit.

5. When the appeal was called nobody appeared for the respondent. Learned counsel for the appellant has been heard. The question of law on which the appeal was admitted for hearing now stands decided by a Division Bench of this Court in *Sir Sobha Singh and Sons (P) Ltd. Vs. New Delhi Municipal Committee*, holding that the remedy against assessment or levy of house tax is only by way of an appeal u/s 84 of the Punjab Municipal Act, 1911. There is an authority

nominated under the Act to decide the question on merits. No other authority or Court is competent to decide an objection to valuation or assessment. Section 86 of the Act clearly says so, which bars the jurisdiction of civil court to entertain a suit in which objection is taken to any valuation or assessment. In view of the said decision, the substantial question of law is answered in affirmative that civil court had no jurisdiction to entertain a suit.

Consequently, the appeal is allowed, impugned judgment and decree are set aside and suit of the plaintiff is dismissed with costs.