(2006) 01 P&H CK 0179

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 12434 of 1990

Punjab State Electricity Board — APPELLANT

Vs

Municipal Committee and Another — RESPONDENT

Date of Decision : 11-01-2006

Acts Referred:

Citation : (2006) 143 PLR 355 : (2006) 2 RCR(Civil) 216

Hon'ble Judges : N.K. Sud, J

Bench : Single Bench

Advocate : R.L Sharma, for the Appellant; M.L. Sarin and Sahil Sharma, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Sud, J.—This writ petition is directed against the Demand Notice dated 12.12.1989 requiring the petitioner to deposit house-tax for the year 1989-90 within the prescribed period. In the notice, it has been pointed out that tax bill No. 98/28 had been sent earlier, but the petitioner had failed to deposit the same.

2. Learned Counsel for the respondents contends that the writ petition is totally misconceived. He states that the assessment in respect of the property in question for the year 1989-90 had been made on 27.3.1989 on agreed basis. He has produced a certified copy of the order passed on 27.3.1989 which shows that for the purpose of assessment, Shri Mukhtiar Singh, J.E. was present on behalf of the petitioner, who had agreed for the assessment at Rs. 3,50,000/- against the proposed assessment of Rs. 7,31,075/-. Learned Counsel points out that this order of assessment has not been challenged. He, therefore, contends that here is no occasion for challenging the demand notice which has only been issued in pursuance of the order of assessment. He contends that even the assessment made on agreed basis could not have even been questioned by the petitioner in view of the judgment of this Court in Harbachan Kaur v. State of Punjab and Anr. 1984 (1) AILR 497. Counsel for the petitioner has not been able to controvert the aforementioned factual position. He, however, states that since the petitioner has

challenged the demand notice, the assessment automatically stands challenged. He further states that Shri Mukhtiar Singh, J.E. was not competent to give his consent to the assessment on behalf of the petitioner. I am satisfied that there is no merit in the contentions raised by the counsel for the petitioner. It is clear that it is the petitioner which had deputed Shri Mukhtiar Singh to attend the proceedings before the respondents for determination of the annual rental value of the property. Having done so, they cannot turn around to say that he was not competent to give his consent to the assessment. At any rate, the contention of the counsel for the petitioner that by challenging the demand notice dated 12.12.1989 the assessment itself stands challenged, cannot be accepted. By not challenging the assessment made on 27.3.1989 in appropriate proceedings, the petitioner cannot be allowed to challenge the demand notice issued in pursuance to such assessment. He has not pointed out any calculation mistake in the demand notice warranting interference. It has also been correctly pointed out that the assessment made on agreed basis could not have been questioned in appeal without proving that the agreement had been made under duress.

3. In view of the above, I do not find any merit in this writ petition which is, accordingly, dismissed. No costs.