
(1987) 02 DEL CK 0015

In the Delhi High Court

Case No : Civil Writ Petition No. 535 of 1981

R.L. Wadera

APPELLANT

Vs

A.A.C. and Others

RESPONDENT

Date of Decision : 02-02-1987

Acts Referred:

Citation : (1987) 12 DRJ 330

Hon'ble Judges : B.N. Kirpal, J

Bench : Single Bench

Advocate : S.C. Dhanda, K.K. Wadhera, R.C. Pandey and Dinesh Agnani, for the Appellant;

Judgement

B.N. Kirpal, J.

(1) The challenge in this writ petition is to the demand for house tax which had been raised in respect of. the petitioner's house No. A-80, N.D.S.E. Part-11. New Delhi.

(2) The petitioner had constructed the aforesaid house in the year 1961,. According to the petitioner the total cost of construction, including the cost of the land, came to Rs. 40,000.00. It is alleged that the rateable value of the said house was first fixed at Rs.650.00 and was subsequently increased to Rs. 7,830.00.

(3) The grievance of the petitioner is that he was served with a notice dated 25/3/1976 whereby it was proposed that the rateable value would be enhanced from Rs. 7,830.00. to Rs. 13,770.00. It is alleged in the petition that on 2/4/1976, objections were filed by the petitioner but the same were not considered and the rateable value was increased to Rs. 13,770.00, for the assessment year 1976-77. Thereafter, for the subsequent years also,. that time and again, he has been filing objection to the assessment but the same have not been considered. There is considerable force in the submission of Mr. Agnani, learned counsel for the respondent that the petitioner ought to have been failed

of the alternative remedy open to him under the Act, Ordinarily a writ court could not interfere where alternate remedy is available. In this case, however, I find that objections had been raised by the petitioner which were ignored by the respondents. Further more there are no facts placed on the record by the respondents which can justify the enhancement of rateable value which had been made in respect to the assessment year 1976-77 and onwards. Mr. Dhanda has brought to my notice the fact that for the assessment in respect of the year 1985-86, the respondents themselves have fixed the rateable value to Rs. 3,650.00. This being so, it would not be in the interest of justice that the petitioner is denied relief because he has not availed to the alternate remedy open to the petitioner. It is expected that the respondents when making assessment would apply the law of the land. At least after the decision of the Supreme Court in Daulat Rai, Kapur's case the respondents ought to have computed the rateable value- by applying the principles laid down therein. If the respondents act fairly and expeditiously, there is no reason as to why it should not be able to obtain" dues payable to them. Unnecessary litigation can be avoided by the respondents acting on their own and, if need be. revising the orders of assessment and asking an assessed to pay the amounts legally due.

(4) In the present case the respondents do not appear to have applied correct principles in determining the rateable value of the property in question. I would, Therefore, issue a writ of mandamus quashing the notices dated 12/12/1980 and 23/2/1981 and direct the respondents to redetermine the rateable value of the property in question for the years in respect of which the impugned notices were issued. This determination should take place after due notice to the petitioner.

(5) Mr. Dhanda informed me that the petitioner has deposited with the respondents the admitted amount of tax payable by him. Therefore, the dispute is only with regard to the disputed amount claimed by the respondents. The fresh assessment shall be made within six months from today.

(6) The petition is disposed of in the aforesaid terms. The parties. shall bear their own costs.