(1981) 11 P&H CK 0014

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 2250 of 1972

Shrimati Urmila Devi Gupta — APPELLANT

Vs

The Municipal Committee, Faridabad and others — RESPONDENT

Date of Decision : 13-11-1981

Acts Referred:
Punjab Municipal Act, 1911 — Section 84

Citation : (1981) 11 P&H CK 0014

Hon'ble Judges : I.S. Tiwana, J

Bench : Single Bench

Advocate : B.S. Gupta, for the Appellant; Gopi Chand with Mr. Mani Ram, for the Respondent

Judgement

I.S. Tiwana, J.—The petitioner impugns the imposition of house-tax for the year 1971-72 on her properties no. 100 and 109, situated in Faridabad City, on the grounds :--

(i) that the rental value of the said properties has not been fixed in accordance with law ; and

(ii) the tax could only be imposed with effect from 1st April, of the next ensuing year 1972-73.

Briefly, the facts are that in the preceding year 1970-71, the rental value of the above-mentioned properties for purposes of house-tax was fixed at Rs. 3,000/-, per year. Somehow, during the year in question, the administrator of the Municipal Committee thought to double it i.e. to raise it to Rs. 6,000/-, per year. This assessment of the rental value was challenged by the petitioner by filing objections. According to her, the same were never decided or disposed on merits After that, the petitioner was issued demand notice, Annexure ''C'' asking her to pay Rs. 702/- by way of house tax. Against this the petitioner preferred ''an appeal u/s 84 of the Punjab Municipal Act (for short "the Act") but that too was dismissed by the Sub Divisional Magistrate, Ballabgarh, on 28th March, 1972, vide Annexure E/1.

2. It is contended in the light of a decision of their Lordships of the Supreme Court in Devon Daulat Rai Kapoor etc. v. New Delhi Municipal Committee and another AIR 1980 S.C. 544, that where a building is governed by the provision of Rent Control Legislation the assessment of annual value as defined in section 3(1) (b) of the Act has to be determined in accordance with the rent law. The case of the petitioner is that the respondent-authorities have not adhered to this legal procedure and have just fixed the annual value in an arbitrary manner at Rs. 6,000/- a year. No written statement to this petition, has been filed on behalf of the respondents, and, therefore, the facts and allegations stated in the petition have to be accepted as correct. Thus, it is patent in the face of the above noted authoritative pronouncement of the Supreme Court that the assessment made by the respondent-authorities is unsustainable and has to be set aside.

3 Mr. Gopi Chand, Learned Counsel for the respondent-authorities points out that the petitioner has not taken any such objection before the Administrator or in the grounds of appeal before the Sub Divisional Magistrate. Even if that be so, the authorities are not absolved of the obligation to comply with the procedure laid down for the assessment of the annual value. Under the law the burden is on them and they are under an obligation to conform to the provisions of law.

4. The second contention of the Learned Counsel for the petitioner, noted above, is equally full of merit. A bare reading of the notices Annexure A and B relating to the above noted two properties indicates that the Municipal Committee sought to frame a new list of the annual value of the properties in question in terms of section 68 of the Act. If that was the situation as it was then as has been held by this Court in Municipal Committee, Khanna v. Sub Divisional Officer (C) Samrala 1979 P.L.J. 174, the Committee cannot in the middle of the year enforce the assessment list mentioned in section 6 of the Act from the beginning of the assessment year. No doubt it is true that the Committee has the discretion to prepare a new assessment list every year or to adopt value of assessment of any previous year, or to adopt value arid assessment of the previous year with such alteration as may be necessary, but in case it prepares a new list in terms of section 68 of the Act, then it cannot enforce it with retrospective effect from the beginning of the assessment year. Mr. Gopi Chand, Learned Counsel for the respondent-authorities however, has referred to Punjab National Bank Vs. New Delhi Municipal Committee, , but the same to my mind does not help the respondents. That was a case where the prevalent assessment list was sought to be amended u/s 67 of the Punjab Municipal Act and the notice specifically stated, "notice is hereby given to you u/s 67 of the Punjab Municipal Act that the Committee will consider the question of the amendment of the list and will hear objections in Meeting.........". That is not the situation here. In view of this, I allow this petition with costs and quash the impugned orders, Annexure ''C/1'' and and ''E/1''. The counsel''s fee is assessed at Rs. 300/-.