(1977) 07 MP CK 0003

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 640 of 1970

Swami Shivanand APPELLANT

Vs

Municipal Council, Satna and Others RESPONDENT

Date of Decision : 01-07-1977

Acts Referred:

Constitution of India, 1950 — Article 226
Madhya Pradesh Municipalities Act, 1961 — Section 127(3), 139
Madhya Pradesh Nagariya Sthawar Sampatti Kar Adhiniyam, 1964 — Section 6(f)

Citation : (1980) ILR (MP) 227 : (1978) JLJ 14

Hon'ble Judges : N.C. Dwivedi, J;G.P. Singh, J

Bench : Division Bench

Advocate : A.S. Jha with R.P. Pandey, for the Appellant; R.P. Verma, for the Respondent

Final Decision : Dismissed

Judgement

G.P. Singh, J.—This is a petition under Article 226 of the Constitution for quashing of the order of the District Judge, Satna, dated 12th October 1970, passed in revision u/s 139 of the Madhya Pradesh Municipalities Act, 1961.

2. The petitioner in this petition is the Manager and Chief Working Trustee of the religious and charitable trust bearing the name ''Swargashram Pili Kothi Chitrakoot''. House No. 7 in Ward No. 6 of Satna town is owned by the aforesaid religious and charitable trust. The Municipal Council, Satna, levied house-tax u/s 127 (I) (i) of the Act in respect of the said house. The petitioner claimed exemption of the house from house-tax u/s 127(3)(ii). The exemption claimed by the trust was disallowed on which the trust went up in appeal to the Civil Judge, Class I, Satna. The Civil Judge allowed the appeal and held that the house was exempt from house-tax under the aforesaid provision. The Municipal Council then went up in revision to the District Judge. The District Judge allowed the revision by his order dated 12th October 1970 holding that the house did not fall within the exemption. It is this order of the District Judge which is challenged in this

petition.

3. The finding in respect of the house is that the trust has let out the house to other persons who do not carry on any charitable activity in the house. The rent obtained by the trust from its tenants of the house is, however, utilised by the trust for charitable purposes. On this finding it has to be seen in this petition whether the house qualifies for the exemption u/s 127(3)(ii).

4. Section 127(3) reads as follows:

127(3). Except the taxes specified in Clauses (Xi), (xiii) and (xv) of sub-section (1), no tax shall be leviable in respect of the following save with the previous consent of the State Government, namely,--

(i) places set apart for public worship;

(ii) places used for charitable purposes;

(iii) dharamshalas or sarais or such parts thereof for the occupation of which no rent is charged;

(iv) public burning and burial grounds;

(v) buildings used for educational purposes for which no rent is charged;

(vi) buildings or lands belonging to the State Government used as Government Offices, Hospitals, Maternity and Nursing Homes, Child Welfare Centres and for other public purposes and for which no rent is charged;

(vii) Municipal property.

5. The contention of the learned counsel for the petitioner is that the words "places used for charitable purposes" as used in Clause (ii) of section 127(3) will include a house which is let out for non-charitable purposes but the rent of which is used for charitable purposes. According to the learned counsel, if the rent realised from a house is wholly used for charitable purposes, it would be said that the house is used for charitable purposes, even though the tenants or the occupants of the house do not carry on any charitable activity in the house. In our opinion, this contention is not well founded. It may be that in a certain context user of rent of a house may amount to user of the house for charitable purposes. But in the context of Clause (ii) of section 127(3) the word "used", in our opinion, conveys the idea of actual user of the house for charitable purposes. If merely the rent is used for charitable purposes and the house is used by the tenants for non-charitable purposes, the house would not qualify for exemption. The word "used" also finds place in Clauses (v) and (vi) of section 127(3). It is clear by reading Clauses (v) and (vi) that the word "used" as finding place in these clauses conveys actual user of the building or house for the purposes mentioned in these clauses. Similar meaning should be given to the word "used" in Clause (ii). The only difference is this that in Clauses (v) and (vi) if rent is charged for a building which is used for educational purposes or which is used for

the purposes mentioned in Clause (vi), the building will not qualify for exemption. But as regards Clause (ii) if a building is used for charitable purposes, it will qualify for exemption even though rent is charged for the use of the building. Having considered all these clauses, in our opinion, the word "used" in Clause (ii) refers to the actual use of the "places" and not to the use of the rent realised by letting out the "places". As admittedly the building was not in occupation by the tenants of the petitioner trust for any charitable purpose, it cannot be said that it was being used for charitable purposes within the meaning of Clause (ii) of section 127(3).

6. Learned counsel for the petitioner has drawn our attention to section 6(f) of the Madhya Pradesh Nagariya Sthawar Sampatti Kar Adhiniyam, 1964, to show that the word "used" may also cover the case of use of rent or income. Having regard to the proviso contained in section 6(f), it does appear that if rent from a building is exclusively applied to religious purposes or for charitable institutions, the building may qualify within section 6(f) for exemption as building used for such purposes. However, the language and the setting of section 6(f) of the Nagariya Sthawar Sampatti Kar Adhiniyam, 1964, are very much different from section 127(3) of the Municipalities Act. In our opinion, therefore, the assistance of the former cannot be taken for purposes of construction of the latter. As earlier stated, after reading the relevant clauses of section 127(3), it is clear to us that the word "used" as finding place in Clause (ii) of section 127(3) does not connote the idea of the user of the rent, and that it only refers to the actual user of the "places". In our opinion, the District Judge was right in holding that the house owned by the trust did not qualify for exemption.

7. The petition fails and is dismissed. There shall, however, be no order as to costs. The amount of the security deposit shall be refunded to the petitioner.

