(1997) 01 P&H CK 0114

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 4209 of 1981

The Municipal Committee APPELLANT

Vs

The Deputy Commissioner and Others RESPONDENT

Date of Decision : 30-01-1997

Acts Referred:
Punjab Municipal Act, 1911 — Section 67

Citation : (1997) 116 PLR 408 : (1997) 3 RCR(Civil) 369

Hon'ble Judges : T.H.B. Chalapathi, J

Bench : Single Bench

Advocate : H.S. Gyani and G.S. Vudhi, for the Appellant; M.S. Kang, for the Respondent

Final Decision : Dismissed

Judgement

T.H.B. Chalapathi, J.—This writ petition is filed against the order of the Deputy Commissioner, Hoshiarpur setting aside the assessment of the property tax for the year 1977-78 made by the Municipal Committee, Hoshiarpur on M/s Swaran Talkies (Pvt.) the 2nd respondent herein.

2. Initially, the net annual rental value of the theatre was assessed at Rs. 16,200/-. The Municipal Committee, Hoshiarpur, issued a notice u/s 67 of the Municipal Committee Act, 1911 for enhancing the assessment on the ground that the theatre was leased out at a rate of Rs. 5500/- per week and after giving an opportunity to the respondent-Cinema, the Municipal Committee vide its order dated 17.7.1978 (vide Annexure P-3) fixed the net annual rental value at Rs. 75,000/- Against the said order, the respondent-theatre preferred an appeal to the Commissioner, Jalandhar, who by his order dated April 4, 1979 (Annexure P-5) set aside the fixation of annual rental value at Rs. 75,000/- and remanded the matter to the Administrator, Municipal Committee, to record reasons for fixing the annual rental value and thereafter determine the net annual rental value of the respondent-property. Thereafter the matter was taken up by the Municipal Committee and it fixed the net annual rental value at Rs. 67,200/- The

respondent Cinema preferred an appeal to the Deputy Commissioner, who set aside the order of the Municipal Committee on the ground that there was no reason for enhancing the net annual rental value.

3. Aggrieved by the said order, the Municipal Committee filed this writ petition.

4. I have carefully gone through the orders of the Municipal Committee, Hoshiarpur, Deputy Commissioner, Hoshiarpur and also the order passed by the Commissioner, Jalandhar on April 4, 1979. On a careful perusal of the record, I do not find any material to show that the theatre was leased out on weekly basis for a sum of Rs. 5500/-. In fact, the contention of the respondent No. 2 is that a rebate of Rs. 1,86,000/- was allowed in regard to repairs, electricity charges, furniture, machinery and other appurtenances, but the other expenses incurred by the respondent-theatre for payment of salary to the employees have not been taken into account by the Municipal Committee while assessing the annual rental value. According to the respondent-theatre, an amount of Rs. 95,000/- per year was being spent for meeting expenses towards the salary of the staff of the theatre and there was no ground for enhancing the annual rental value u/s 67 of the Punjab Municipal Act, 1911. u/s 67 of the Punjab Municipal Act. 1911, the annual rental value can be revised only if there is an error or mistake or that the assessment was made by a fraudulent means. The Municipal Committee has not adverted to any of these circumstances while enhancing the annual rental value. I am of the opinion that the Deputy Commissioner rightly held that the grounds mentioned in Section 67 of the Punjab Municipal Act. 1911 are not existing so as to enable the Municipal Committee to enhance the annual rental value. I, therefore, do not find any ground warranting interference with the order of the Deputy Commissioner, Hoshiarpur.

5. The result is, the writ petition fails and is, accordingly, dismissed, but without costs. However, it is made clear if there is any evidence that the theatre has been let out for a particular rate or rent, it is always open to the Municipal Committee to revise the assessment and while revising the assessment, it can give such deductions as are admissible to the respondent for incurring of expenses including salary to the staff.

