(1982) 10 P&H CK 0004

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 901 of 1975

Vijay Kumar Dogra APPELLANT

Vs

Municipal Committee, Ludhiana and another RESPONDENT

Date of Decision : 19-10-1982

Acts Referred:
Punjab Municipal Act, 1911 — Section 65

Citation : (1982) 10 P&H CK 0004

Hon'ble Judges : S.S. Sodhi, J

Bench : Single Bench

Advocate : R.S. Bindra, for the Appellant; J.S. Chahal, for the Respondent

Judgement

S.S. Sodhi, J.—This order will dispose of the Writ Petition referred to above as also Writ Petition No. 903 of 1975 Raghbir Singh and others v. Municipal Committee, Ludhiana and another and Writ Petition No. 905 of 1975 Vijay Kumar Dogra v. Municipal Committee, Ludhiana, and another. A common question of law relating to the assessment of annual rental value of buildings in Ludhiana for levy of house tax under the Punjab Municipal Act, 1911 was raised therein and they were, consequently, heard together

2. The annual rental value of the houses of all the petitioners in these Writ Petitions had been enhanced by the Municipal Committee by orders passed u/s 65 of the Punjab Municipal Act, 1911 (hereinafter referred to as the Act). I Writ Petition No. 901 of 1975, the annual rental value of the building, which had been assessed at Rs. 1,440/- for the year 1973-74, was enhanced to Rs. 2,520/-. In Writ Petition No. 903 of 1975, the annual rental value of the building Rs. 1,200/-, for the year 1973-74, was raised to Rs. 3,360/-. Similarly, in Writ Petition No. 905 of 1975, the annual rental value of the building Rs. 480/- for the year 1973-74 was enhanced to Rs. 1,140/-. The appeals filed by the petitioners u/s 84 of the Act were all dismissed by the Deputy Commissioner.

3. House tax is leviable with reference to the annual value of the building.

Section 3(1)(b) of the Act defines annual value'' mean, in the case of any house or building "the gross annual rent at which such house or building...........may reasonably be expected to let from year to year" subject to certain specified deductions. In dealing with this definition, it was observed by the Supreme Court in Devon Daulat Rai Kapoor etc v. New Delhi Municipal Committee A.I.R 1980 S.C. 541, that "it is the value of the property to the owner which is taken as the standard for making assessment of annual value The criterion is the rent realisable by the landlord and not the value of the holding in the hands of the tenant. The rent which the landlord might realise if the building were let is made the basis for fixing the annual value of the building "It was further observed that" the word ''reasonably'' in the definition is very important What the landlord might reasonably expect to get from a hypothetical tenant, if the building were let from year to year, affords the statutory yardstick for determining he annual value " It was accordingly held that "the annual value of a building governed by the Delhi Rent Control Act, 1958, must be limited by the measure of standard rent determinable under that Act. The landlord cannot reasonably expect to get more rent than the standard rent payable in accordance with the principles laid down in the Delhi Rent Control Act, 1958."

4. The East Punjab Urban Rent Restriction Act, 1949 also contains specific provisions with regard to the determination of fair rent as also provision against the landlord seeking to recover rent in excess thereof. It follows, therefore, that in case of a building governed by the East Punjab Urban Rent Restriction Act. 1949, too the annual value of the building must be limited to the fair rent determinable under that Act. It was specifically so held by our High Court in Kidar Nath v. Municipal Committee, Ludhiana (1974) 76 P.L.R. 176. In this case it was held that, in places where the East Punjab Urban Rent Restriction Act, 1949 was in force, the rent of buildings situated there in could not be in excess of the fair rent as determined under that Act and, consequently, the annual letting value of the houses for the levy of house-tax had to be determined on that basis.

5. Admittedly, in the present case, the annual letting value of the buildings of the petitioners has not been determined on the basis of fair rent for those buildings on principles laid down in the East Punjab Urban Rent Restriction Act, 1949. In this view of the matter, the orders of the Municipal Committee and of the Deputy Commissioner enhancing the annual rental value of the buildings of the petitioners and the imposition of house tax on the basis thereof are hereby quashed. The Municipal Committee will, however, be at liberty to determine the annual rental value of the buildings for the period in question afresh in accordance with the provisions of the East Punjab Urban Rent Restriction Act, 1949 relating to the determination of fair rent. The Writ Petitions are, thus, accepted. In the circumstances, however, there will be as order as to costs.

