Pawan Kumar Vs. Additional Deputy Commissioner

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Court : Punjab and Haryana

Decided On : Feb-25-1997

Reported in : (1997)116PLR389

Judge : H.S. Brar, J.

Acts : Haryana Municipal Act, 1973 - Sections 99

Appeal No. : Civil Writ Petition No. 7614 of 1988

Appellant : Pawan Kumar

Respondent : Additional Deputy Commissioner

Advocate for Def. : O.P. Goyal, Sr. Adv. and; Sandeep Kumar, Adv.

Advocate for Pet/Ap. : P.S. Rana, Adv.

Judgement :
ORDER

H.S. Brar, J.

1. This Judgment will dispose off Civil Writ Petition Nos. 7614, 3586, 7615, 7617, 7624 and 7636 all of 1988. The facts being common in all have been taken from Civil Writ Petition No. 7614 of 1988.

2. The property of the petitioner bearing No. XI 397/430 situated on the G.T. Road, was earlier being assessed to house tax and tax of Rs. 175/- p.a. was being paid. The property was reassessed in the year 1985 and it is the case of the petitioner that at the time of preparation of the final assessment no notice was served upon him and it was only when he received a Tax Bill on 24th February, 1986 demanding house tax to the tune of Rs. 3281.25 when he came to know that some assessment had been made. The petitioner, thereafter, applied for a copy of the assessment order but the same was not supplied to him. He nevertheless filed an appeal Under Section 99 of the Haryana Municipal Act and sought to challenge the assessment on various grounds. The matter was, thereafter, taken up by the Appellate Authority-respondent No. 1 the Additional Deputy Commissioner who vide his order dated 18th Jan, 1988 (Annexure P-4 to the writ petition) dismissed the appeal and maintained the assessment demand. Aggrieved thereby, the petitioner has challenged the various orders leading to the assessment and dismissal of the appeal.

3. Notice of motion was issued in this case way back in the year 1988, but till today, no reply has been filed.

4. Sh. O.P. Goyal, the learned Senior counsel appearing on behalf of the respondents has sought an adjournment in the matter for the purpose of enabling him to file a reply. In am of the opinion that as. the orders are quasi judicial nature, no reply would be necessary and I accordingly, proceed to decide the cases.

5. Mr. P.S. Rana, the learned counsel appearing for the petitioner has urged that the reasons given in the order Annexure P-4 passed by the ADC were not relevant to the point in issue. He has specifically brought to my notice the observation made in order Annexure P-4 to the effect that the earlier assessment made by members of the Municipal Committee was motivated and had been kept on the lower side so as to oblige their voters and as the fresh assessment had been made by an independent body after taking into account all relevant factors the same was fully justified. He has also urged that even the observations of the Appellate Authority that as the shop was situated on the G.T. Road, the rental value of Rs. 30,000/- p.a. was not on the higher side, was without any evidence.

Mr. Goyal, has however, supported the reasons given by the Appellate Authority.

6. After hearing the learned counsel for the parties and after going through the r order Annexure P-4, I am of the opinion that the said order cannot be sustained. It is evident from the order aforesaid that one of the primary factors that weighted with the Appellate Authority was that the earlier assessment order had been made on the lower side by members of the Municipal Committee in a malafide manner. Having been influenced by this fact, the Appellate Authority, thereafter, really did not go into the merits of the controversy and without giving any reasons determined the issue and dismissed the appeal. I am, therefore, of the opinion that the order Annexure P-4 cannot be sustained.

7. Mr. Rana, the learned counsel for the petitioner has however, urged that this challenge was not only to the order Annexure P-4 but even to the assessment order and that as the matter was covered by various judgments of the Supreme Court as also this court, the matter should be decided herein and now. I am, however, of the opinion that the jurisdiction of the Appellate Authority would extend to a re-determination of the assessment keeping in view all relevant facts more particularly the judgments of the Supreme Court and High Court on this point.

8. This petition is, therefore, partly allowed, the order Annexure P-4 is quashed and the matter is remitted to the Appellate Authority to rehear the appeal and the decide the same in accordance with law. The parties are directed through their counsel to appear before the Appellate Authority on 25th April, 1997 who shall dispose off the matter within a period of three months from that date. Dasti.