

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3009 OF 2000

Municipal Corporation of the
City of Pune having its Head Office
at Shivajinagar, Pune – 411005

...Petitioner

Versus

Satishkumar Satyanaran Agarwal
aged about 42 years, Occupation -
Business, residing at 199, Ganesh
Peth, Pune -411 002

...Respondent

.....

Mr. Abhishek Roy, Ms. Sweta Shah i/by Abhijit P. Kulkarni, Advocate for
the Petitioner
None for the Respondent

.....

CORAM : ABHAY AHUJA, J.

RESERVED ON : 16th OCTOBER 2025

PRONOUNCED ON: 27th NOVEMBER 2025

JUDGMENT :

1. This Petition filed under Article 227 of the Constitution of India seeks direction to set-aside the Judgment and Order dated 3rd April 1999 passed by learned XIIth Additional District Judge Pune, at Pune in Civil Appeal No. 434 of 1993 filed against the Judgment and order dated 2nd April 1993 passed by the Learned Small Causes Judge, Pune in Municipal Appeal No. 97 of 1990 whereby the Learned

Additional District Judge had dismissed the appeal preferred under Section 411 of the Bombay Provincial Municipal Corporations Act, 1949 (the “BPMC Act”) by the Petitioner thereby confirming the Judgment and order dated 2nd April 1993 passed by the Learned Small Causes Judge, Pune whereby the rateable value of Rs.9300/- with effect from 01/05/1985 fixed by the Petitioner Corporation in respect of property leased to the Respondent viz. Plot No. 345 admeasuring 3000 sq. ft. situated at Market Yard Gultekdi, Pune (the “said premises”) was set aside and re-fixed at Rs.2600/- with effect from 01/04/1990.

2. The background facts are that in and around 1976, the said premises was allotted to the Respondent by the Agricultural Produce Market Committee. The Petitioner Corporation had fixed the rateable value in the year 1980 at a concessional rate by giving concession for a period of three years i.e. till 1983, as the lessees in the market area were to establish their trade activities at the new place and under different conditions.

3. After the concessional period of three years was over, the Municipal Commissioner ordered to reopen and assess the cases on the

basis of the costs of construction. Pursuant thereto, orders were passed depending upon the area of the godown and number of godowns.

4. The Petitioner in consultation with the Chairman of Market Committee by its order No. MC/GOH/162 dated 07th October 1985 fixed the rateable value in respect of single godown admeasuring 1500 sq.ft. including the mezzanine floor at Rs. 9,300/-.

5. In the year 1985-86 the Respondent carried out R.C.C. construction of godown admeasuring 1300 sq. ft. and mezzanine floor admeasuring 200 sq. ft. on the said premises. The Petitioner Corporation initiated Case No. A/119/86/87 in respect of construction carried out by the Respondent and issued Special Notice to the Respondent proposing to fix the rateable value at Rs.30,600/- with effect from 01/05/1985.

6. On 27th July 1988 after hearing the authorized representative of the Respondent and taking standard rent at Rs.1.75 per sq. ft. and further considering earlier case no. 265/84/85 the Petitioner Corporation fixed the rateable value in respect of the said premises at Rs.9,300/- with effect from 01/05/1985.

7. It is stated that on or about 19th April 1990, the Respondent after receipt of tax bill No. 74002 dated 10th April 1990 challenged the same and also the rateable value fixed on 27th July 1988 by filing Municipal Appeal No. 97 of 1990 under Section 406 of the BPMC Act. The Petitioner resisted the appeal by filing its reply.

8. The Respondent examined himself and one other witness being Mr. Sanjay Goyal who held the Plot No. 646-647 in Market Yard on lease from the Agricultural Market Produce Committee who in his examination-in-chief stated that the construction of the premises held by him and that of Respondent was made at one and the same time and the nature of construction is also similar and the rateable value of both plots with structure is Rs.5,200/-.

9. On 02nd April, 1993, the Small Causes Court allowed the Appeal filed by the Respondent by passing the following order:

“The appeal is allowed.

The Rateable Value fixed at Rs.9300/- of the appellant’s property is hereby set aside, and instead of RV of the appellant’s property is fixed at Rs.2600/- w.e.f. 1.4.1990

The Respondent is directed to correct the assessment books accordingly

The excess taxes paid by appellant be refunded to it within 3 months from date of this order.

The parties to bear their own costs.”

10. Aggrieved by the same, the Petitioner preferred an appeal before the Additional District Judge Pune raising the ground that the rateable value has been fixed by taking into consideration the rent fetching capacity and the costs of the construction. The Additional District Judge dismissed the appeal vide judgment dated 03rd April 1999 confirming the order of the Small Causes Court holding that the rateable value fixed for the premises is just and proper.

11. Aggrieved by the decision of the Additional District Judge, the Petitioner has filed this Petition under Article 227 of the Constitution of India, seeking the following relief:

“(b) quash and/or set aside impugned Judgment and order dated 3rd April 1999 passed learned XIIIth Additional District Judge, Pune at Pune in Civil Appeal No. 434 of 1993 arising out Judgment and order dated 2nd April 1993 passed by the Learned Judge of the Court of Small Causes Pune at Pune in Municipal Appeal No.97 of 1990 thereby restoring the rateable value fixed by the Corporation at Rs.9300/- (NR) with effect from 1/5/85 in respect of the godown & mezanine floor situated in Plot No.345, Market Yard, Gultekdi, Pune by issuing appropriate writ, order or direction”

12. In the Writ Petition rule was issued in August 2000 and interim relief had been granted in terms of prayer clause (d). That no

reply appears to have been filed to the Writ Petition despite service.

13. On 16th October 2025, when the matter was called out for final hearing, none has appeared on behalf of the Respondent.

14. I have heard Mr. Abhishek Roy, learned Counsel appearing for the Petitioner and with his able assistance I have perused the papers and proceedings.

15. Mr. Roy, learned Counsel appearing for the Petitioner has submitted that the Courts below have erred in not properly considering the fact that construction of adjoining plot belonging to Sanjay Trading Co. which is being relied upon by the Respondent was carried out in the year 1979-80 and the construction of the Suit property is of 1986. It is further submitted that the District Court has incorrectly observed that it was the duty of the Corporation and the Corporation has failed to adduce evidence that the Suit godown was constructed in 1985. Mr. Roy has submitted that the duty to adduce evidence of cost/proof/year of construction lies on the assessee and not the assessor. Mr. Roy has submitted that the Trial Court has committed serious error in reducing the rateable value from Rs.9,300/- to Rs.2,600/- on the comparative

basis method when admittedly, no evidence of cost of construction was ever led before the Assessor and Collector of taxes.

16. Mr. Roy has submitted that the Trial Court has seriously erred in not considering that there are different methods of fixation of the Rateable Value, and one of the methods is the actual rent payable or the reasonably expected rent of the subject property. It has been submitted that the Trial Court has erred by holding that the Corporation should have fixed the Rateable Value of similar construction with that of the adjoining plot.

17. Mr Roy has relied upon the decisions of this Court in the cases of *(i) PMC v. Dhanraj Tarachand Sankala*¹ *(ii) The Municipal Corporation of the City of Pune and Ors v. M.M.Nahar*² and *(iii) PMC v. M/s. E.L.F. Filaments*³ and submitted that in view of the settled law that merely because two properties are adjacent to each other, their assessment need not be the same, this Court may allow the Petition.

18. Mr Roy has further submitted that while considering the method adopted by a corporation for assessing the property, this Court

1 2013 (3) Bom.C.R. 347

2 Writ Petition No.2301 of 2009 Order

3 2025: BHC-AS:9525

has in the case of *PMC vs M/s. Deval Electroplators*⁴ held that there is nothing wrong if a property having recent construction is required to pay more tax than the older construction based on the quality of material used for construction.

19. Learned Counsel would submit that in light of the above decisions this Court may set-aside the judgment in the appeal and remand the matter back to the Additional District Court for fresh consideration in accordance with the aforesaid law.

20. In *Pune Municipal Corporation v. Dhanraj Tarachand Sankala & sons (supra)* this Court, (B.P. Dharmadhikari, J as His Lordship then was), while considering the appeal against the Order of the District Court with respect to the assessment of rateable value of property held that merely because two properties are situated adjacent to each other, their assessment need not be the same and restored back the appeal for fresh trial. Paragraph 4 of the decision is relevant and quoted as under:

“4. A perusal of the impugned judgment reveals that by assessment order dated 5-7-1991 the rateable value of the Respondent’s property was fixed at Rs.8950/- and that order was questioned in Municipal Appeal No. 221 of 1991 under Section 406 of the Pune Municipal Corporation Act, 1959. The Respondents adduced

4 2024: BHC-AS:11441

evidence and pointed out that the adjacent property i.e. plot No. 271 was also assessed by the same Municipal Corporation and its rateable was fixed at Rs.2600/-. The total construction on the said plot was 1500 sq ft. The Court has noted that construction on the appellant's plot before it was only 720 sq. ft. it is therefore found in such situation determination of rateable value at Rs.8950 was exorbitant and RV of present plot of appellant ought to have been fixed proportionately. It fixed it at Rs.1300/- with effect from 1-4-1991. What was wrong with the process followed by the present Petitioner while determining the rateable value of Respondent's property is also not disclosed. The Judgment does not show that R and P of the Municipal Corporation in relation to exercise of assessment of property on plot No. 145 was not called for. Merely because two properties are situated adjacent to each other, their assessment need not be the same."

(emphasis supplied)

21. This Court in the case of *The Municipal Corporation of the City of Pune and Ors v. M.M.Nahar (supra)* had the occasion to consider the submissions very similar to the ones made on behalf of the Petitioner with respect to Plot No. 121 Market Yard Gultekdi, Pune which is where the said premises is also situated. This Court (Rajesh Patil J) after considering the decision of this Court in *Pune Municipal Corporation v. Dhanraj Tarachand Sankala & sons (supra)* held that while assessing a new structure on a land what has to be considered is the construction cost and what will be standard rent expected if the

structure was let by the owner/landlord. It was further held that structure cannot be fixed on the basis of old assessment. So also the land beneath the structure is presumed to be assessed when the structure is assessed as land gets married with the structure when the structure comes up on the said land.

22. This Court (Amit Borkar J) in the case of *Municipal Corporation of the City of Pune v M/s. E.L.F Filament Industries Pvt Ltd (supra)* while deciding the challenge to the judgment of the District Court on the assessment of rateable value, where the judge of the Small Causes Court deduced a reduced rateable value by drawing a parallel with another building in the same society, constructed in 1980, held that mere geographical proximity or the fact that both buildings fall under the same society does not, by itself, suffice to warrant identical or near-identical rateable value, in the absence of relevant proof. Paragraph 32 and 33 of the decision are relevant and are usefully quoted as under:

“32. The learned Judge of the Small Causes Court deduced reduced rateable value by drawing a parallel with another building in the same society, constructed in 1980. The Appellate Court endorsed this view, holding that similar structures in the vicinity ought to guide the assessment of rateable value. However, upon

perusal of the record, it transpires that no coherent reasoning or reliable evidence was adduced to establish that the two buildings under consideration were indeed comparable in essential attributes – such as the type and quality of construction. The fact that the same society does not, by itself, suffice to warrant identical or near-identical rateable values, in the absence of relevant proof. The property assessments must be firmly anchored in objective criteria reflective of each property's intrinsic features. The approach of the Courts below, in proceeding on presumptive similarities without the evidentiary moorings, thus cannot be sustained.

33. It is trite law that absolute uniformity in the matter of taxation, while desirable, is neither an attainable standard nor a statutory imperative. The jurisprudence surrounding property tax- particularly in jurisdictions governed by rent control enactments – recognizes the standard rent principle as the bedrock of assessing rateable value. The concept of fair or standard rent necessarily factors in the age, quality, and other intrinsic attributes of the premises. Newer constructions, owing to superior materials, modern amenities, and enhanced market perception, typically command higher rental values, and this increment naturally translates into a higher tax burden. The Assessing Authority is not enjoined to proactively scour for identical structures; rather, its duty lies in determining a fair and just rateable value in line with prevailing legislative and judicial mandates. Consequently, it would be contrary to established principles to mechanically equate an older structure with a newer one or to require the Assessing Authority to demonstrate exact uniformity across distinct properties. The Courts have consistently held that reasonable differentiation grounded in objective factors does not violate the canons of equity, provided

the assessment remains transparent, evidence-based, and legally tenable .”

23. Perusal of the impugned judgment and order dated 3rd April 1999 passed by the Learned Additional District Judge, Pune and the the Judgment and Order dated 2nd April 1993 passed by the Small Causes Court reveals that heavy reliance has been placed on the rateable value fixed of the plot adjoining said premises, although, it was admitted by the Respondent in his cross examination that he had no personal knowledge as to when the construction of the adjoining plot was made. Moreover, there is no evidence led or documents on record to show the cost of construction of the said premises or the adjoining plot and whether it is similar, and in the absence of evidence of cost of construction of the said premises as well as the adjoining plots, the Courts below could not have taken a comparative analysis of the rateable value. The Courts below have also failed to factor in the age, quality, and other intrinsic attributes of the said premises. Newer constructions, owing to superior materials, modern amenities, and enhanced market perception, typically command higher rental values, and this increment naturally translates into a higher tax burden. Consequently, it would be contrary to established principles to

mechanically equate an older structure with a newer one or to require the Petitioner Corporation to demonstrate exact uniformity across distinct properties. Both the Courts below have not considered the above legal position and have while reducing the rateable value also not disclosed what was wrong with the process followed by the Petitioner Corporation while determining the rateable value of the said premises.

24. In the decision of *PMC vs M/s. Deval Electroplators (supra)*, this Court has held that the construction on the property has to be considered at the time of fixing of the rateable value.

25. In the present case, it was necessary for the Courts below to consider the material on record as to whether the material used for construction by the Respondent was similar to the material used by the owner of the adjoining plot and also to factor in the construction and the gap of time period in the construction carried out on the said premises and the adjoining plot. Therefore, in my view, the Courts below were not justified in setting aside the rateable value fixed by the Petitioner Corporation by reducing the same based on construction on the adjoining plot.

26. Ergo, the Judgment and Order of the Learned Additional District Judge, Pune requires interference and deserves to be set aside and is hereby set aside and the Civil Appeal No. 434 of 1993 is restored back to the file of the Additional District Judge, Pune for fresh consideration in accordance with the law elucidated above. The District Court, Pune to make an endeavour to decide the appeal within six months from the date of receipt of this order.

27. Writ Petition accordingly stands allowed. Rule is made absolute. Writ Petition to accordingly stand disposed as above.

(ABHAY AHUJA, J.)

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signed by
NIKITA
YOGESH
GADGIL
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