IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 24365 of 2014

Date of Decision: 28.10.2015

Ram Niwas and others

....Petitioners.

Versus

Municipal Corporation, Chandigarh and others

...Respondents.

1. Whether the Reporters of the local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE SHEKHER DHAWAN.

PRESENT: Mr. H.R. Bhardwaj, Advocate for the petitioners.

Mr. Vikram Vir Sharda, Advocate for the respondents.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of mandamus directing the respondents to decide their applications/objections and to make necessary correction in the bills, Annexures P-4, P-6, P-9, P-14, P-16 and P-18 and refund the excess tax amount along with interest. Further, a writ of certiorari has been sought for quashing the demand notice dated 5.9.2014 (Annexure P-23).

2. Petitioner No.2 vide conveyance deed dated 28.4.2014 (Annexure P-1) transferred his 50% share in favour of petitioner No.1.

Site No. 475, Motor Market, Mani Majra, Chandigarh was allotted to petitioners No.2 and 3 vide allotment letter dated 6.6.1988 (Annexure P-1/A). Petitioners No.2 and 3 fulfilled all the formalities like getting electricity, water, sewerage connection and construction as per the norms. The site in question is commercial site and after its conversion into Shop-cum-Flat (SCF), the sons of petitioners No.2 and 2 after obtaining necessary sanctions raised the construction on the first floor for their residence and a store room. Ground floor is used as commercial site. The said facts are discernible from the report dated 23.5.2007 (Annexure P-3/A) made by Shri Harjeet Singh, Inspector on the application of the petitioners. Petitioners No.2 and 3 (sons of petitioner No.1) have been paying the property tax regularly as per the bills within the stipulated date. Vide receipt dated 6.4.2007 (Annexure P-2), they had paid the property tax well within time. Petitioners No.2 and 3 challenged the calculations made by the Tax Department by moving objection/application dated 13.4.2007 (Annexure P-3) within the stipulated period for the assessment for the property tax which the department has wrongly calculated in terms of para 3 mentioned on the back side of the bills (Annexure P-4/A), but to no effect. Thereafter, the petitioners received the property tax bill dated 1.4.2008 (Annexure P-4) and deposited the property tax vide receipt dated 23.4.2008 (Annexure P-5). The petitioners received bill dated 1.4.2009 (Annexure P-6) for the year 2009-10 and they deposited the property tax mentioned therein vide receipt dated 9.4.2009 (Annexure P-7). Petitioner No.3 submitted an objection/application dated 18.4.2009 (Annexure P-8) for the necessary correction and to refund the excess tax deposited by the petitioners. Similarly, for the year 2010-11, the petitioners received bill dated 1.4.2010 (Annexure P-9) and they duly deposited the amount vide receipt dated 12.4.2010 (Annexure P-10). Likewise, the petitioners received bill dated 1.4.2011 for the year 2011-12 and they deposited the property tax vide receipt dated 4.4.2011 (Annexure P-11). Petitioner No.2 submitted objection dated 15.4.2011 (Annexure P-12) to the Tax Department for necessary correction and refund of the excess tax for the period of 2010-11 and 2011-12. A reminder dated 21.7.2011 (Annexure P-13) was sent for taking necessary action, but all in vain. Thereafter, the petitioners received bill dated 1.4.2012 (Annexure P-14) for the period of 2012-13 and deposited the property tax vide receipt dated 9.4.2012 (Annexure P-15). For the years 2013-14 and 2014-15, the petitioners received bills dated 1.4.2013 (Annexure P-16) and dated 1.4.2014 (Annexure P-17) and deposited the property tax vide deposit slip dated 18.4.2014 (Annexure P-18). Petitioners No.1 and 3 got 50% share of petitioner No.2 and moved an application to the Municipal Corporation for the necessary changes who vide letter dated 14.7.2014 (Annexure P-19) asked for the clearance certificate of the property tax and regular sewerage connection/occupation certificate. Petitioner No.2 sent a letter dated 21.7.2014 (Annexure P-20) followed by a letter dated 24.8.2014 (Annexure P-22) for issuance of 'No Dues Certificate' to the Incharge, Property Tax Branch, Municipal Corporation, Chandigarh. A registered letter dated 23.7.2014 (Annexure P-21) was sent to the Incharge, Property Tax Branch, Municipal Corporation, Chandigarh for correction of the property tax. The petitioners received a demand notice dated 5.9.2014 (Annexure P-23) from the Additional Commissioner, Municipal Corporation, Chandigarh for the payment of ₹ 79,398/- as property tax due including interest. Thereafter, petitioner No.3 sent a letter dated 9.9.2014 (Annexure P-24) followed by another letter dated 16.9.2014 (Annexure P-25) to the Additional Commissioner, Municipal Corporation, Chandigarh for cancellation of the demand of due property tax including interest. The said letters were sent vide postal receipts dated 16.9.2014 (Annexure P-26). Thereafter, the petitioners served a legal notice dated 7.10.2014 (Annexure P-27) upon respondent No.3 vide postal receipt dated 9.10.2014 (Annexure P-28), but no response has been received till date. Hence, the present writ petition. Upon notice of motion having been received, the respondents filed a written statement. The averments made in the writ petition were controverted and a prayer for dismissal of the writ petition was made.

3. Learned counsel for the petitioners submitted that although the petitioners have approached the respondents by way of applications/objections but no action has so far been taken thereon. He, however, prayed that liberty be granted to the petitioners to file a detailed and comprehensive representation before the appropriate authority by incorporating the grievance as raised in the present writ petition, however, direction be issued to the authority concerned to decide the representation expeditiously in a time bound manner in accordance with law.

4. After hearing learned counsel for the parties, the present writ petition is disposed of by granting liberty to the petitioners to file a detailed and comprehensive representation by taking all the pleas as raised in the writ petition before respondent No.1 within a period of one

month from the date of receipt of the certified copy of the order. It is directed that in case any representation is filed by the petitioners, respondent No.1 shall decide the same in accordance with law by passing a speaking order and after affording an opportunity of hearing to them within a period of three months from the date of receipt of the representation.

(AJAY KUMAR MITTAL)
JUDGE

October 28, 2015
gbs

(SHEKHER DHAWAN)
JUDGE