IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision:05.05.2015.

Nand Lal

.............Petitioner

v.

Divisional Commissioner,Patiala Division,Patiala and another

.............Respondents

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.Sherry K.Singla,Advocate for the petitioner

Jaswant Singh,J.(Oral)

Petitioner claims himself to be a sub-lettee of a property under 99 years' lease let out to Ms.Balwinder Kaur by the original owner. He has laid challenge to the assessment order dated 11.11.2009 (P-2) whereby the House Tax Committee, Municipal Corporation,Patiala has fixed the annual rent @ Rs.4,50,750/- per year and thereafter raised a demand of arrears of house tax to the tune of Rs.2,54,536/- as outstanding for the mentioned property for the year 2010-11. Further challenge is to the order dated 2.1.2013(P-4) whereby the Divisional Commissioner, Patiala Division, Patiala while exercising the appellate jurisdiction under Section 146 of the Punjab Municipal Corporation Act,1976 (for short 1976 Act) has dismissed the appeal of the petitioner against order dated 11.11.2009(P-2).

After hearing counsel for the petitioner at length and perusing the impugned orders with his able assistance this Court is not persuaded to interfere in writ jurisdiction of this Court.

No doubt the initial lease was for residential use, however, it transpires that the property in question is being used for commercial purposes under the name and style of M/s Laxmi Dal Bhujia by the petitioner. The House Tax Committee keeping in view the provisions of Section 93 sub-Section(b) of the 1976 Act has determined the rateable value on the basis rent would be reasonably expected from the commercial use of that property. Nothing ever has been placed on record to show that the rateable value of the property has been incorrectly or perversely assumed. The appeal as per procedure under Section 147(a) of the 1976 Act is concededly required to be filed within 30 days. The appeal factually filed by the petitioner was accompanied by an application for condonation of considerable delay. Even the plea that incidence of such tax would have been on the superior lessor in case of sub-letting was also not urged before the lower Appellate Authority. It cannot be disputed that lower Appellate Authority is the final forum for conclusion of determination of facts.

In view of the above, this Court is not inclined to interfere in writ jurisdiction invoked after a delay of two years of passing of the order by the Appellate Authority. Accordingly, the writ petition is dismissed.

05.05.2015. **(Jaswant Singh)**
joshi **Judge**