*IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 24th August, 2015

+ **W.P.(C) 3130/2014**

SATNAM SINGH BOLA AND ORS .... Petitioners

Through: Mr. K.R. Manjani and Mr. B.K. Manjani, Advs.

Versus

COMMISSIONER, SOUTH DELHI MUNICIPAL CORPORATION AND ANR ..... Respondents

Through: Ms. Eshita Baruah and Ms. Swapnil Kaushik, Advs. for Mr. Gaurang Kanth, Adv.

CORAM:-
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

RAJIV SAHAI ENDLAW, J

1. The petition impugns the order dated 1st April, 2014 of the Municipal Taxation Tribunal dismissing the appeal preferred by the appellants against the order dated 31st May, 2011 of assessment of property tax of property No.J-41, NDSE Part-I, New Delhi of the petitioners for the year 1997-1998.

2. Notice of the petition was issued. Counter affidavit has been filed by the respondents and to which a rejoinder has been filed by the petitioners.

3. The counsel for the petitioners has been heard.

4. After hearing the counsel for the petitioners and perusing the order of the Municipal Taxation Tribunal, what transpires is that the dispute is whether the first floor of the property, at the time to which the assessment

pertains, was in occupation of the tenant or not. If the first floor of the property was in occupation of the tenant, then it is not in dispute that the assessment would be as per law. However, the challenge by the petitioners is that the said first floor of the property in the relevant years was not let out but was in self-occupation of the petitioners.

5. It is the case of the petitioners also that though the said first floor was let out at the relevant time at the rate of Rs.10,000/- per month but the tenant neither paid any rent nor retained the premises for the period for which it was let out and vacated the same within one month.

6. Per contra, the Assessor and Collector of the respondents, on the basis of the material before him, concluded that the said floor of the property was indeed in occupation of the tenant for the period of the assessment. The Municipal Taxation Tribunal, on going through the material in this regard, has affirmed the said finding.

7. Such questions, as to whether the property was let out or not are questions of fact, with findings whereon of the respondents, affirmed by the statutory Tribunal, ordinarily this Court would not interfere in writ jurisdiction. The findings of fact being within the domain of the Tribunal, except where it is a perverse recording thereof or not based on any material whatsoever, resulting in manifest injustice, interference therewith in writ jurisdiction is not called for. The control exercised by the High Court through a writ of certiorari is not in appellate but in supervisory capacity, not extending to reviewing or reweighing the evidence upon which the determination of Tribunal purports to be based. Reference in this regard may

be made to ***Jogendrasinhji Vijaysinghji Vs. State of Gujarat*** 2015 SCC Online SC 606.

8. The counsel for the petitioners though not controverting the said proposition has contended that the finding of the said first floor being tenanted is based on no evidence and would thus be a perverse finding capable of interference in writ jurisdiction.

9. I have gone through the order of the Tribunal, particularly paras 9 & 10 and I am of the view that it cannot be said that the factual conclusions reached by the Tribunal in this regard are such which could not have been reached by any reasonable person, on the basis of the material on record. The same are plausible findings and even if this Court, on the basis of the said material, may arrive at a different finding, the same would not be a ground for interference with the order of the statutory Tribunal. It cannot also be said that there is no material on which such finding could have been arrived.

10. I may in this regard notice that on the basis of the findings of the Tribunal as to suppression of income tax by the petitioners in their income tax records also, this Court while issuing notice of this petition vide order dated 20th May, 2014 had also sent for the Standing Counsel of the Income Tax Authorities for initiating proceedings against the petitioners by the said Authority. However, it appears that thereafter the counsel for the Income Tax Department did not appear and the counsel for the petitioners, on making enquiries, states that no proceedings have been initiated by the Income Tax Department.

11. Be that as it may, as far as this petition is concerned, there is no merit.

Dismissed.

No cost.

RAJIV SAHAI ENDLAW, J

AUGUST 24, 2015
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