IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

RSA-21-2016(O&M)
Date of decision : 07.01.2016

Municipal Corporation, Bathinda

... Appellant

Versus

Smt. Devki Devi and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Sanjeev Soni, Advocate
for the appellant.

REKHA MITTAL. J.

The present appeal lays challenge to the judgment and decree dated 19.08.2015 passed by the learned Additional District Judge, Bathinda whereby the judgment and decree dated 29.09.2014 passed by the Civil Judge (Junior Division), Bathinda dismissing the suit of the respondents/plaintiffs has been set aside.

The respondents/ plaintiffs filed a suit for permanent injunction restraining the defendant from recovering ₹55,300/- towards arrears of house tax for the period from 1974-75 till 2009-10, surcharge and interest in respect of building No.19-A/1, Goniana Road, Bathinda and further restraining the defendant (petitioner herein) from taking any coercive steps for realisation of the said amount. The suit filed by the respondents was dismissed by the trial Court primarily on the ground that the Civil Court has no jurisdiction to examine the question of assessment and demand of house tax etc. The appeal preferred by the respondent has been allowed but with the observations that the petitioner shall be entitled to recover the dues of house tax only for the period of three years.

The sole submission made by counsel for the appellant is that the learned appellate Court should have allowed the petitioner to recover arrears of tax for a period of 12 years instead of 3 years as the arrears would be a charge on the property. In support of his contention, he has referred to the Division Bench judgment of this Court ***"Municipal Committee, Bhatinda Vs. Jaswant Rai and others" 1990(2) PLR 402.***

I have heard counsel for the appellant and perused the records.

The appellate Court has set aside the findings of the trial Court that the jurisdiction of civil Court is barred in view of the provisions of Municipal Act. The Court also noticed that the assessment order dated 27.03.1987 does not bear the signatures of any member of the assessment committee or Executive Officer and it is also admitted that no notice was ever received by Devki Devi and, therefore, the jurisdiction of Civil Court is not barred in view of judgment in ***Municipal Committee, Bhatinda's case (supra).***

Counsel for the appellant is not in a position to convince this Court as to how the ratio of the judgment cited by him is applicable to the facts of the case in hand entitling the appellant to recover arrears of house tax of 12 years. There is nothing on record to suggest that any bill/ demand notice was ever served upon the assessee to substantiate the plea that the arrears became a charge on the property and thus the limitation gets enlarged and recovery could be made of arrears in regard to 12 years. No substantial question of law, as has been raised in the grounds of appeal arises for consideration.

In view of what has been discussed hereinabove, finding no merit, the appeal is dismissed in limine. No order as to costs.

(REKHA MITTAL)
JUDGE

January 07, 2016.
Davinder Kumar