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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 4417/2016

SURENDER NATH (HUF) ..... Petitioner

Through: Mr. Manish Makhija, Adv.

Versus

NEW DELHI MUNICIPAL COUNCIL ..... Respondent

Through: Mr. Arjun Mitra, Adv.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

<u>O R D E R</u>

% **16.05.2016**

<u>CM No.18486/2016 (for exemption)</u>

1. Allowed, subject to just exceptions.

2. The application is disposed of.

<u>W.P.(C) 4417/2016</u>

3. The petition seeks a

"writ of mandamus, certiorari thereby directing respondent to set aside its alleged decision dated 31st March, 2014 to enhance the rateable value of the basement portion of the property bearing No.20/48, Diplomatic Enclave, Malcha Marg, New Delhi from Rs.2,64,192/- to Rs.10,56,768/-".

4. The document dated 31st March, 2014 is not a "decision" as the petitioner appears to understand and on which understanding this petition is filed but is merely a notice under Section 72 of the New Delhi Municipal Council Act, 1994 proposing to enhance the rateable value of the basement of property No.20/48, Diplomatic Enclave, Malcha Marg, New Delhi from that existing of Rs.26,62,700/- to Rs.31,95,200/- with effect from 1st April, 2013.

5. Upon it being put to the counsel for the petitioner as to how the petitioner is treating a mere proposal pursuant to which no decision has been taken as a “decision” and impugning the same, the counsel for the petitioner invites attention to pages 14 and 15 of the paper book which are the bills dated 16th November, 2009 and 10th November, 2010 raised by the respondent on the petitioner for property tax and contends that the respondent therein is showing arrears which in fact are not due and has given the proposal dated 31st March, 2014 with respect thereto.

6. There is no challenge in the petition to the bills dated 16th November, 2009 and 10th November, 2010 as indeed cannot be after such a long lapse of time.

7. The counsel for the petitioner then states that the respondent NDMC may decide the proposal dated 31st March, 2014.

8. The counsel for the respondent NDMC appearing on advance notice states that the decision will be taken in accordance with law.

9. Though the petition is entirely misconceived and is dismissed with cost of Rs.10,000/- to the respondent NDMC payable within four weeks of today failing which the same shall be recovered as part of arrears of house tax but the respondent NDMC is also directed to decide the proposal as contained in the notice dated 31st March, 2014 in accordance with law within three months of today.

10. At this stage, the counsel for the petitioner states that he will be careful in future not to file frivolous petitions.

11. Recording the same, the cost is waived.

RAJIV SAHAI ENDLAW, J

MAY 16, 2016
'gsr'..