Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**WRIT PETITION No. 3700 OF 2006**

Pune Municipal Corporation ... Petitioner
Vs.
Mrs. Kala Gopal Joshi ... Respondent

Mr. Rajdeep S. Khadapkar, Advocate for the petitioner.
Mr. Ketan A. Chothani, Advocate for the respondent.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **30th March, 2017.**

**P.C.:**

This Writ Petition filed by the Pune Municipal Corporation is directed against the judgment and order dated 3rd December, 2005 passed by the 13th Ad-hoc Additional District Judge, Pune in Civil Appeal No. 419 of 2005. This pertains to incorrect assessment of the municipal property tax of the flat of the respondent.

2. Flat No. A-5 of the respondent/original appellant situate on the 2nd floor at Ratna Nagari, 361 Shukravar Peth, Pune-411 002. The Municipal Corporation fixed the tax for the first time in the year 1997 and accordingly property tax of the flat of the respondent is fixed at Rs.2,254/- for six months. However, the respondent challenged the said assessment on the ground that the property tax of the flat

adjacent to her flat being similar in all respects as that of the respondent's flat was fixed at Rs.1,553/- for 6 months by the Pune Municipal Corporation. The incorrectness and discrepancy of the assessment of these two flats having the identical location so also the measurement was the issue before the trial Court. However, Municipal Appeal No. 26 of 2000 was dismissed by the learned Judge of the Small Causes Court, Pune on 14th March, 2015, against which the respondent/original appellant moved the District Court by filing Civil Appeal No. 419 of 2005. The said Appeal was decided in favour of the present respondent. Hence, this Writ Petition.

3. The learned counsel for the petitioner/Corporation submitted that for calculating Annual Rateable Value, the Corporation has considered the standard rent at Rs.1.25/- per sq.ft. for residential premises, however, the area of flat of respondent is bigger than the area of the neighbouring flat. The learned counsel has submitted that the area of the flat of the respondent is 848 sq.ft. and area of the neighbouring flat is 583 sq.ft. The learned counsel has submitted that the rate is same, however, as the area of the respondent is bigger, so the assessment of property tax bill for 6 months is more

than the property tax bill of the neighbouring flat.

4. The learned counsel for the respondent has submitted that this Appeal is pending since 2005. He submitted that the Municipal Corporation has erroneously held the constructed area of the flat as 848 sq.ft. instead of area of 751 sq.ft. each. He relied on a map produced by the respondent along with list No. 29 wherein it is shown that Flat No. A-5 belonged to the respondent and flat No. A-6 was owned by the neighbour. He submitted that both the flats having constructed area of 751 sq. ft. each with terrace admeasuring 193 sq.ft. of the respondent and terrace admeasuring 195 sq. ft. of the neighbour. He submitted that the area of both the flats is nearly identical, yet the property tax bill of both the flats raised by the Corporation varies from Rs.2,254/- to Rs.1,553/- for 6 months.

5. Perused the order of the learned Judge of the Small Causes Court and learned District Judge. The learned District Judge has discussed the oral as well documentary evidence of the respondent. It appears that Pune Municipal Corporation did not examine any witness in support of its case. It is necessary for the Corporation to

verify the area on the basis of original approved plan of the building and flats. Moreover, for the flats which are placed identical with the same measurement, there should not be any variance in assessment of those flats. Thus, the order passed by the learned District Judge is legal and correct. Hence, Writ Petition is dismissed.

**(MRIDULA BHATKAR, J.)**