

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

**CWP No.22906 of 2014**

**Date of decision:01.08.2017**

Amteshwar Singh Chadha and others ... Petitioners

Vs.

State of Punjab and others ... Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL  
HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. Mohit Jaggi, Advocate  
for the petitioners.

Mr. Jaswinder Singh, Senior DAG, Punjab.

Mr. Sanjeev Soni, Advocate  
for respondents No.3 and 4.

**AMIT RAWAL J.**

The petitioners aggrieved of the impugned orders dated 12.09.2013 (Annexure P-6); 15.05.2013 (Annexure P-4) rendered by the appellate authority, i.e., Divisional Commissioner, Patiala Division, Patiala and Commissioner, Municipal Council, Patiala, respectively calling upon the petitioners to pay house tax amounting to ₹ 6,27,899/-, have invoked extra ordinary writ jurisdiction under Articles 226 and 227 of the Constitution of India.

2. Learned counsel for the petitioners submits that the petitioners are owners of the property bearing No.16690 situated at Gurbax Colony, Patiala having equal share i.e., 109 square yards each, total measuring 436 square yards, vide four separate registered sale deeds. The details of which have been given in para 2 of the writ petition.

3. The aforementioned property, vide lease deed dated 7.6.2010 (Annexure P-1), is on rent with Bharti Retail Limited, at a monthly rent of ₹80,800/- per month, where the business under the name and style Easy Day Store is being run.

4. The respondents without conducting the physical verification and in undue haste framed the assessment of the aforementioned property, at the back of the petitioners.

5. Having left with no other opportunity, the petitioners preferred an appeal before the aforementioned statutory authorities on the grounds taken therein. In fact, the respondents have assessed the house tax of the property quite abnormally as the respondents have failed to take into consideration the factual position of the rental value of the property. Even perpetual requests made for re-assessing the property after affording the opportunity of hearing to the petitioners but did not yield any result. The appellate authority despite having noticed the fact that the property has been let out on rent by lease deed at a monthly rate of ₹80,800/-, yet assessed the rental value at the rate of ₹1,20,000/- and dismissed the appeal. The appellate order is bereft of the reasoning and thus, the impugned orders are not sustainable in the eyes of law. It was urged that the orders under challenge be set aside.

6. Learned counsel for respondent No.3 and 4 submits that the petitioners had never raised any objections with regard to proposed assessment of annual rental value of ₹1,20,000/- per month for the year 2010-11. Even the notice under Section 103 of the Punjab Municipal

Corporation Act, 1976 (for short “the Act”) was served upon the petitioners. The regular annual bills of the tax have been sent to the petitioners amounting to ₹1,94,000/-. The petitioners did not make any payment and thereafter, the demand notice dated 25.03.2013 (Annexure P-2) of the year 2012-13 was sent to the petitioners including the arrears of previous years but the petitioners did not make any payment and therefore, a notice dated 24.04.2013 under Section 137 of the Act for recovery of ₹6,19,608/ was issued. For want of payment, the Municipal Corporation was compelled to auction the property. Further, after dismissal of the appeal, the petitioners have deposited a sum of ₹6,81,560/- through five cheques amounting to ₹50,000/-, ₹4,81,560/-, ₹50,000/-, ₹50,000/- and ₹50,000/- and has cleared the payment without any protest, therefore, the petitioners are estopped to challenge the aforementioned order. It was urged that the impugned order be upheld.

7. We have heard learned counsel for the parties and appraised the paper book.

8. While referring to the aforementioned arguments, attention of this Court was drawn to the lease deed dated 7.6.2010, wherein, the rental value has been fixed at ₹80,800/- per month but the appellate authority without adverting to the objections and assigning any reasons taken the rental value of the property ₹1,20,000/- per month. The operative part of the impugned order dated 12.09.2013 reads as under:-

*“4. I have gone through the grounds of appeal, heard the counsel for the respondents and have also gone through the*

*impugned order. The main assertion of the appellant is that the rental value of the property in question is ₹80,800/- as per rent deed executed between the parties but the respondents have wrongly assessed the rental value to the tune of ₹1,20,000/- per month and the impugned order has been passed at the back of the appellants. After perusing all the facts of the case, it is evident that an Easy Day store is running on the property in question. The assertions of the appellants are not acceptable and I feel that the respondent has rightly assessed the property in question after considering all the facts of the case. Thus, the appeal filed in this case has no merits and the same is hereby dismissed.*

*Announced.  
12.9.2013*

*Sd/- Divisional Commissioner,  
Patiala Division, Patiala.”*

9. The authorities while dealing with the respective contentions of the parties are legitimately expected to pass the reasoned speaking order but not in the manner and mode as indicated above. In our opinion, the authority is required to re-visit the issue.

10. Resultantly, the orders dated 15.05.2013 (Annexure P-4) and 12.09.2013 (Annexure P-6) are set aside/quashed and the matter is remitted to the Divisional Commissioner, Patiala Division, Patiala for deciding the matter afresh after affording the opportunity of hearing to the parties by passing a speaking and reasoned order within a period of three months from the date of receipt of a certified copy of this order. Needless to say, anything observed hereinbefore shall not be taken to be expression of opinion on the

merits of the controversy.

11. The parties are directed to appear before the Divisional Commissioner, Patiala Division, Patiala on 07.09.2017.

12. The writ petition stands disposed of in the aforementioned terms.

(AJAY KUMAR MITTAL)  
JUDGE

(AMIT RAWAL)  
JUDGE

August 01, 2017  
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Whether Speaking/Reasoned  
Whether Reportable

Yes/No  
Yes/No