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

\+ W.P.(C) 1638/2017 and CM APPL. 7316-7317/2017

ANITA SINGHVI ..... Petitioner

Through: Mr. Joy Basu, Senior Advocate with Mr. Sumit Chander and Mr. Abishek Tripathi, Advocates.

versus

NEW DELHI MUNICIPAL COUNCIL ..... Respondent

Through: Mr. Arjun Mitra, Advocate with Mr. Hardeep, Junior Assistant.

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI

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

% **22.02.2017**

1. The present petition has been filed by the petitioner praying *inter alia* for quashing/setting aside the order dated 06.10.2016 passed by the respondent/NDMC under Section 72 of the NDMC Act, on the basis of a notice issued on 21.03.2002, proposing to revise the existing rateable value of the subject flat from Rs.24,354/- to Rs.5,10,000/-, with effect from 01.04.2001, on a comparable rent basis. By the impugned order, the respondent/NDMC has revised the rateable value of the subject flat from the Assessment Years 2001-02 to 2016-17.

2. Mr. Mitra, learned counsel for the respondent/NDMC opposes the maintainability of the present petition on the ground that an efficacious remedy of filing an appeal under Section 115 of the NDMC Act has not

been invoked by the petitioner.

3. Mr. Basu, learned Senior Advocate appearing for the petitioner submits that the remedy of appeal cannot be treated as an alternate efficacious remedy for the reason that the appellant would be expected to make a pre-deposit of the property tax assessed for 14 assessment years, which itself totals to a sum of Rs.13,45,280/-.

4. It is for the petitioner to consider the feasibility of challenging the tax assessed for the base year before the Appellate Authority on making a pre-deposit of the tax payable for the said year. However, this Court declines to entertain the present petition directly, when the petitioner has a statutory remedy of an appeal available to her.

5. Counsel for the respondent/NDMC states that as and when the petitioner files an appeal before the competent authority, the NDMC reserves its right to invoke the provisions of Sections 116 and 117 of the NDMC Act and oppose the same on the grounds of limitation.

6. The petition is disposed of alongwith the pending applications with liberty granted to the petitioner to file an appeal.

7. It may be noted here that petitions assailing property tax assessment orders have been filed before this Court in the recent past, wherein the respondent/NDMC has been passing orders under Section 72 of the NDMC Act in respect of notices that were issued to assesses over a decade ago. It is most unacceptable and inequitable that the said notices have been kept pending for several years without any justification. In this duration, the status of the properties in question could have changed as also the ownership thereof. Once the said notices are adjudicated, the respondent/NDMC is quick to raise a demand at one go on the assesses, that relates to a number of

assessment years and runs into lakhs of rupees. This results in harassing and unnecessarily burdening the assessee who is left struggling to arrange the funds to meet the deadline of the pay by date or end up paying interest on the delayed payment, apart from facing other legal consequences contemplated in the Statute.

8. Learned counsel for the respondent/NDMC has been called upon to explain the reason and the logic behind keeping such notices pending for several years together when they ought to have been disposed of in a reasonable period. He states that he has shared the views expressed by this Court on earlier occasions, with the Department.

9. While refraining from passing any adverse orders against the respondent/NDMC for the present, it is made clear that if the NDMC does not mend its way by deciding pending notices issued under Section 72 of the NDMC Act within a reasonable time of one year from the date of issuance, on the next occasion that may arise, the Court will be compelled to issue directions to the NDMC to streamline the entire procedure and make it time bound.

A copy of this order be placed before the Chairperson, NDMC for perusal.

HIMA KOHLI, J

FEBRUARY 22, 2017
rkb/mk/ap