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

\+ W.P.(C) 7828/2017

ASHISH SARNA ..... Petitioner

Through Mr.Subhash Jindal, Advocate.

versus

NEW DELHI MUNICIPAL COUNCIL AND ORS..... Respondents

Through Mr.Arjun Mitra, Advocate for R-1.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

O R D E R

% **05.09.2017**

Petitioner has made the following prayers:

"a) Direct the respondents to mutate the Flat No.A-201, 6 Aurangzeb Road, New Delhi-110011 in favour of the petitioner as NDMC/respondents has already received appropriate amount of transfer duty of Rs.8,37,730/- from him (Annexure P/16, P/17 & P/17A) and also direct them to do necessary rectification in the property tax bill dated 22.8.2016 (Annexure P/23) as per Order of remand dated 21.7.2000 (Annexure P/4) passed by Deputy Commissioner, New Delhi in Appeal No.676/94 and 675/94 under NDMC Act, 1994.

OR

Any other order or orders may kindly be passed as this Hon'ble Court deem fit and proper in the facts and circumstances of the case."

At the outset, this Court is of the view that this petition is not maintainable and this is reflected from the record.

Record shows that the petitioner had applied to respondent no.2 in April, 2014 for mutating Flat No.A-201, 6, Aurangzeb Road, New Delhi in his name. His further contention was that his matter which has been remanded by the Appellate Tribunal of the NDMC (Tax Department) also required to be addressed; submission all along being that this property was self-occupied and the rateable value applied by the respondent qua the said property was not the correct rateable value; the tax demand raised qua this property needed a reconsideration. Further averments show that this property is in the name of the brother of the petitioner namely Dhiraj Sarna. It was Dhiraj Sarna who was contesting these proceedings before the Tribunal (property Tax) of respondent no.1. Petitioner made his representations to the respondent stating that this property needs to be transferred from his brother's name to his name; the issue of the property tax also required a reconsideration. In spite of all these reminders which were given repeatedly; no positive response was received from the respondent. The petitioner had deposited a sum of Rs.8,37,730/- as a transfer duty fee which amount has been accepted by the respondent. Submission being that even after the receipt of this amount respondent has failed to transfer the aforenoted property from Dhiraj Sarna to the name of the petitioner and mutation in the record of the Department has not been effected. Petitioner has met the officials of the Department time and again. His grievances are not being addressed. His last representation to the Department was made on 04.8.2017. He has been constrained to file the present petition. The prayer made in the petitioner has been noted. The prayers in sub-para (a) and sub para (b) appear to be based on different causes of action. The first part of prayer (a) seeks a transfer of the aforenoted property in the name of the petitioner from its erstwhile owner namely Dhiraj Sarna. The second part seeks a rectification in the property tax demand.

The correspondence in this regard qua the petitioner has been perused. The respondent had on 10.7.2015 (Annexure P/22) informed the petitioner that a sum of Rs.14,76,380/- on account of property tax arrears for period ending 31.3.2015 is recoverable from the petitioner which amount has to be paid for consideration of the mutation issue which the petitioner was pleading. Besides this other documents required to be furnished by the petitioner which also find mention in the said letter.

Admittedly, this amount of Rs.14,76,380/- has not been paid. On 04.8.2017 (last communication) petitioner had addressed a communication to the respondent informing them that this amount of Rs.14,76,380/- which is the arrears of property tax is a wrong calculation as the R.V. of the flat should be much less keeping in view the fact that this property is alway self-occupied and not rented out; the property should be transferred in his name as he has already paid a transfer fee of Rs.8,37,730/-.

Admittedly the petitioner has not challenged the bill vide which the rateable value of the property had been fixed pursuant to which a demand of Rs.14,76,380/- has been raised qua the property. The question of transfer/mutation in the name of the petitioner would not arise unless this demand has been met with and this has been informed to the petitioner time and again. In fact it is not the case of the petitioner that he is not in arrears of property tax; his submission is that this rateable value fixed by the respondent requires a re-consideration. Again at the cost of repetition, this not having been challenged before the Competent Authority at the relevant time, this Court will not be in a position to examine this issue. The transfer/mutation of the property is closely interlinked with this aspect i.e. the payment/clearance of the arrears of the property tax. In the absence of the petitioner having paid this amount the question of transfer/mutation of the property could not be acceded to. If the petitioner was aggrieved by the rateable value fixed qua the said property (his submission being that it should be rectified) it was for him to have taken appropriate steps qua this aspect before the Competent Authority.

This petition in the present form is not maintainable. None of these prayer can be acceded to by this Court in the absence of the petitioner having laid a challenge to the demand of property tax. This petition is a wastage of the precious time of this Court. Learned counsel for the petitioner has been advised to withdraw this petition but he chose not to withdraw it and he sought an order merits. This petition being a wastage of the precious time of this Court, it is dismissed with costs quantified at Rs.25,000/-.

INDERMEET KAUR, J

SEPTEMBER 05, 2017
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