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

% *Date of Judgment: 24th May, 2018*

\+ W.P.(C) 5431/2018

SHRI TEK CHAND NARULA AND ORS. ..... Petitioners

Through Mr. S.N. Choudhari, Ms. Shruti Choudhari and Mr. Sukreet Khandelwal, Advocates

versus

N.D.M.C. AND ANR. ..... Respondents

Through Mr. Arjun Mitra, Standing Counsel with Mr. Malvika Trivedi, ASC for the NDMC.
Mr. S.P. Singh, CGSPC and Mr. Anirudh Shukla, CGGP for respondent no.2/UOI.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. ***(ORAL)***

1. This is a petition under Article 226 of the Constitution of India filed by the petitioners. The petitioners seek a direction to quash the order dated 28.03.2017 received on 04.04.2018 pursuant to a notice issued to the petitioners under Section 72 of the NDMC Act, 1994.

2. Notice. Counsels for the respondents enter appearance on an advance copy and accept notice.

3. With the consent of the counsel for the parties, the writ petition is being disposed of at the admission stage itself.

4. The petitioners are the owners of property bearing no.P-1/90, Connaught Circus, New Delhi. The subject matter of this writ petition arises out of a notice for enhancement of Property Tax, which was issued to the petitioners in the year 1980. As per the writ petition, the petitioners challenged the notice for enhancement by filing three appeals against the Assessment Orders. The writ petition also reveals that the three appeals were accepted on different dates, including on 27.10.1983, 31.05.1985 and 14.08.1985. Meanwhile, a part of the property was let out from time to time to different tenants who have vacated the portions, including the Ground Floor and Mezzanine which were given on lease to J & K Bank, who vacated the premises on 12.09.2000. A part of the building was also given on lease to M/s. GEM India Ltd., who vacated on 31.03.2000. Rear portion of the First Floor was given on rent to Ranbaxy Laboratories, who vacated on 27.01.2005. It is also the case of the petitioners that petitioner no.3 is residing in part of the First and Second Floor portions of the property. License was sought to run a Bed and Breakfast Scheme, which was granted in 2007. It is also the case of the petitioners that they have been filing objections from time to time for the Assessment Orders of Property Tax. The prime grievance of the petitioners is that the notice which was issued in the year 2008 has been decided by an order, which has been pre-dated as 28.03.2017, whereas hearings were given even upto October, 2017 pursuant to a notice issued on 23.10.2017 and which was granted on 30.10.2017.

5. Mr. Choudhari, learned counsel appearing on behalf of the petitioners has contended that the impugned order was received by the petitioners on 04.04.2018, which is evident upon examining the envelope containing the order which has been filed at page 57 of the paper book is liable to be set aside and quashed *inter alia* for the reason that while passing the impugned order, the respondent failed to take into consideration the documents submitted and relied upon by the petitioners in the hearings on 30.10.2017 and 31.10.2017 arising out of a clarification sought by the respondent. Various other grounds have been raised in this writ petition.

6. Learned counsel appearing on behalf of the respondent NDMC submits, on instructions, that the impugned order dated 28.03.2017, which according to the petitioners was received on 04.04.2018, may be set aside and the respondents would grant one hearing to the petitioners to enable them to place all additional documents on record, if any, in addition to the documents already filed, and thereafter a fresh order would be passed. Counsel for the petitioners has no objection to the same.

7. Resultantly, in view of the stand taken by the parties, the writ petition is allowed. The impugned order dated 28.03.2017 is quashed. It would be open for the petitioners to raise all grounds as available, including the grounds raised in the writ petition at the time of hearing. The rights and contentions of both the parties are kept open.

8. The writ petition stands disposed of.

CM.APPL 21085/2018(stay)

9. The application stands disposed of in view of the orders passed in the writ petition.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

MAY 24, 2018
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