IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 4415 of 2015 (O&M)
Date of decision: 13.2.2019

Municipal Corporation Bhatinda
...Appellant

Versus

Durga Dass through his legal heirs
...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. GC Garg, Advocate,
for the appellant.

None for the respondents.

JAISHREE THAKUR, J.

1. The respondent—plaintiff filed a suit for permanent injunction restraining the defendant/appellant herein from recovering any house tax in pursuance of assessment order dated 26.10.2005, which was allowed by the Civil Judge (Junior Division) Bathinda, on 18.10.2012 and the appeal filed by the Municipal Corporation against the judgment and decree was dismissed by the first Appellate Court, giving rise to the instant appeal.

2. In brief, the facts are that a suit was filed by the plaintiff/respondent stating that he is owner in possession of a premises bearing municipal No. 4019, situated at Court Road, Bathinda. It was stated that the plaintiff and his family members are residing therein and no portion of the same has been rented out. It was further stated that a notice No. 175/HT dated 10.5.2005 was received from the Municipal Corporation—

appellant under Sections 101-103 of the Punjab Municipal Corporation Act whereby the Municipal Corporation proposed to assess annual ratable value of the ground floor measuring 18' x 60' at ₹60,000/- for the assessment year 2005-2006. Objections were invited to the proposed assessment and in response to the said notice, the plaintiff/respondent filed his detailed objection, which were ignored and assessment order dated 26.10.2005 was issued whereby ratable rent for the assessment year 2005-2006 was fixed at ₹54,000/- after allowing 10% deduction. Aggrieved against the said notice and demand, the suit was filed challenging the said assessment.

3. A detailed written statement came to be filed stating that the respondent had appeared and was given personal hearing and it is thereafter that the assessment order was passed. The issues came to be framed and thereafter evidence was led. On consideration of the evidence, the suit of the plaintiff was allowed and the notice issued was set aside. Aggrieved against the said judgment, an appeal was filed which too came to be dismissed.

4. Learned counsel appearing on behalf of the appellant herein contends that both the courts below have ignored the well settled principle of law that the civil court would have no jurisdiction to entertain a suit for injunction in respect of a house tax. It is further submitted that both the courts below have ignored Sections 146 and 149 of the Punjab Municipal Corporation Act, 1976, where jurisdiction of the civil court to entertain a suit for injunction in respect of house tax has been barred. Reliance in this regard has been placed on the judgments rendered by this Court in **Romesh Kumar and others V. The Municipal Committee, Gurdaspur and others**

1981 AIR (P&H) 303, **Municipal Corporation, Ludhiana through Commissioner and others Versus Raghbir Kaur and another 2009 (4) Punjab Law Reporter 130** and the Supreme Court judgment in **N.D.M.C V. Satish Chand (deceased) by L.R. Ram Chand AIR 2003 Supreme Court 3187.**

5. Notice of motion was issued in this Court, however, despite service, no one has put in appearance on behalf of the respondents.

6. I have heard learned counsel for the appellant and perused the impugned judgments as well as the judgments as relied upon.

7. The only substantial question that arises for consideration in this appeal is, whether the Civil Court would have no jurisdiction to entertain a suit for injunction in respect of house tax?

8. The question of law, as framed, is no longer res-integra having been settled in a catena of judgments wherein it has clearly been held that the question of assessment of house tax cannot be challenged in a civil court. The Supreme Court in the case of **Munshi Ram V. Municipal Committee, Chheharta AIR 1979 SC 1250,** while dealing with the subject matter held to the following effect:-

> *"From a conjoint reading of sections 84 and 86, it is plain that the Municipal Act, gives a special and particular remedy for the person aggrieved by an assessment of tax under the Act, irrespective of whether the grievance relates to the rate or quantum of tax or the principle of assessment. The Act further provides a particular forum and a specific mode of having this remedy which analogous to that provided in Section 66 (2) of the Indian Income-tax Act, 1922. Section 86 forbids in clear terms the person aggrieved by an assessment from seeking his*

remedy in any other forum or in any other manner than that provided in the Municipal Act.

It is well recognized that where a Revenue Statute provides for a person aggrieved by an assessment thereunder, a particular remedy to be sought in a particular forum, in a particular way, it must be sought in that forum and in that manner, and all other forums and modes of seeking it are excluded. Construed in the light of this principle, it is clear that sections 84 and 86 of the Municipal Act bar, by inevitable implication, the jurisdiction of the Civil Court where the grievance of the party relates to an assessment or the principle of assessment under this Act."

9. In view of the above settled position of law, this Court is of the opinion that the civil suit filed by the plaintiff/respondent challenging the assessment of house tax by the appellant was clearly barred by law.

10. Consequently, this appeal is allowed. The impugned judgments passed by the courts below is set aside and the civil suit filed by the plaintiff/respondent is dismissed as not maintainable. There will be no order as to costs.

13.2.2019 **(JAISHREE THAKUR)**
prem **JUDGE**

Whether speaking/reasoned Yes
Whether reportable No