IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-2936-2018
Date of Decision: November 05, 2019

Nagar Council, Banur

...Appellant

Versus

Food Corporation of India and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI, JUDGE.

Present: Mr. Harinder Kumar Aurora, Advocate,
for the appellant.

ARUN PALLI, J. (ORAL)

Suit filed by respondent-plaintiff was decreed by the Trial Court, vide judgment and decree, dated 24.07.2015, and as the appeal preferred against the said decree failed, and was dismissed on 08.11.2017, appellant-defendant No. 1 is before this Court in Regular Second Appeal. Parties to the *lis,* hereinafter shall be referred to by their original position in the suit.

Plaintiff-Food Corporation of India prayed for a declaration that house tax bill, amounting to Rs.1,39,164/-, dated 02.02.2009, issued by defendant No. 1, i.e. Nagar Council, Banur, was illegal, arbitrary, null and void. An injunction was also prayed for, restraining defendant No. 1 and its officials from causing recovery of the said amount. In brief, the case set up was that plaintiff-Corporation had purchased a land, situated at Banur, Tehsil Rajpura, vide sale deed, dated 07.02.2006, from defendant No. 2, upon which it constructed a godown on an area measuring 10 Bighas 17

Biswas. Defendant No. 1 had been charging the house tax annually for the past many years. However, a dispute arose between the parties owing to the revised assessment. Plaintiff received a bill dated 02.02.2009, wherein demand of Rs.1,39,164/- was raised, and even earlier a bill, dated 24.09.2007, for Rs.1,17,936/- was received, which was challenged by plaintiff through a suit, which was pending. The bills pertained to the arrears of house tax for the years from 2004-05 to 2007-08, but the plaintiff was not bound to deposit the same as the godown fell within the area of Punjab New Mandi Township Act, 1960 (for short, 'the Act'), i.e. with defendant No. 2, and the said property in terms of Section 17(1) and (2) of the Act, was exempted from payment of house tax. Accordingly, plaintiff requested defendant No. 1 many times to withdraw the house tax bill, but to no avail. Thus, the suit.

In the written statement filed by defendant No. 1 it was denied if the plaintiff was entitled to exemption from deposit of house tax as the godown fell within the area of the Act. Further, if at all there was any notification, the same was not applicable to the property in question. Thus, the suit was liable to be dismissed.

Upon consideration of the matter in issue and the evidence on record both the Courts concurrently concluded that claim of plaintiff was that it had purchased a piece of land from defendant No. 2 and constructed a godown, and the said property was exempted from house tax under the Act. The factual position that plaintiff had purchased the suit land, vide sale deed, dated 07.02.2006, was not disputed. Thus, the short issue that required determination was, if the said godown was exempted from payment of house tax in the wake of the notification issued by the Punjab Government. In support of its claim, plaintiff had proved on record documents Exs. P-1 to P-6 and Mark-A, Mark-B and Mark-A/1. Ex. P-1 was the copy of the notification whereby exemption was granted from payment of house tax under the Act, qua the areas that fell within Banur. The evidence on record showed that godown in question was situated within the said area, i.e. Banur. Not just that, a copy of the jamabandi (Ex. P-5) also revealed that suit property was situated within Banur. The plea in terms of the judgment, dated 07.05.2013 (Ex. P-6), rendered by the Additional District Judge, Patiala, the jurisdiction of the Civil Court to try such a dispute was barred, under Sections 84 and 86 of the Punjab Municipal Act, was also rejected. For in the said case the dispute was qua assessment of house tax, whereas in the matter at hands, the issue pertained to legality of imposition of house tax. Thus, jurisdiction of the Civil Court was not barred. For, the evidence on record proved that property in question was exempted from house tax, by virtue of the notification issued by the Punjab Government, thus, the only and the inevitable conclusion that could be reached: the impugned house tax bill, dated 02.02.2009, for Rs.1,39,164/- was illegal, arbitrary, null and void.

On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusions concurrently arrived at by both the Courts were either contrary to the record or suffered from any material illegality. No ground is made out to interfere with the concurrent findings recorded by both the Courts.

The appeal being devoid of merit is accordingly dismissed.

(ARUN PALLI)
JUDGE

November 05, 2019
Pkapoor Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO