IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3351 OF 1996
WITH
WRIT PETITION NO.3358 OF 1996
WITH
WRIT PETITION NO.6429 OF 1995

Nasik Municipal Corporation,
Nasik City, Nasik ..Petitioner
Versus
Shri. Murlidha Shriram Shukla
Since deceased through his legal heirs
Smt. Snehalata Prabhakar Shukla
Since deceased through her legal heirs
Shri. Shriniwas Prabhakar Shukla and Ors. ..Respondents

Mr. M. L. Patil, for the Petitioner.
Ms. Rukmini Khairnar i/by Pramod Joshi & Mr. P. M. Shah, for the Respondents.

CORAM : NITIN W. SAMBRE, J.

DATE : 24th FEBRUARY, 2022

P.C.

1. The judgment of Second Appellate Court i.e. learned Additional District Judge, Nashik in Civil Misc. Appeal No.287 of 1994 is under challenge. The said judgment was delivered on 24th July, 1995 with following observations.

"The appeal is allowed.

The judgement and order dated 30.06.1994 passed by

> the Lower Court is hereby set aside.
>
> The amount of A.L.V. of Rs.7057/6351 is reduced with the finding that the corporation is entitled to recover the tax of Rs.1426/- per year only from the appellants from 1.4.1991 onwards.
>
> The appellants are entitled to the refund of the excess amount of Rs.10768/- (Rs.16,472 minus Rs.5704, the amount of tax from 1.4.1991 to 31.3.1995 at the rate of Rs.1426/- Rs.10,768/-).
>
> This amount be refunded to the appellants within the period of three months from today, as ordered in Civil Misc. Appeal No.286/94.
>
> In the facts and circumstances of the case, the parties are, however, directed to bear their respective costs of this appeal."

2. Mr. M. L. Patil, learned counsel for the Corporation would urge that the Court below has committed an error thereby exercising jurisdiction in showing interference in calculation of taxes thereby modifying annual letting value.

3. The fact remains that the present issue is pending adjudication since 1993.

4. This Court is sensitive to the very scheme of Sub Section (4) of Section 96 of the CPC, wherein an appeal against decree for an amount of less than Rs.10,000/- is not maintainable.

5. In the aforesaid background, this Court is required to be sensitive to the fact that the First Appellate Court has upheld the annual letting value applied by the petitioner, whereas the Second Appellate Court whose judgment is under challenge has allowed the claim of annual letting value and refund of taxes.

6. As far as the writ petition No.6429 of 1995 is concerned, Second Appellate Court has reduced the annual letting value for a period from 1985-86 and directed refund of amount of Rs.625/-.

7. This Court after considering entire matter is of the view that instead of permitting refund of the amount, if so prayed by the occupant, same can be adjusted in the future taxes liability against property over which such tax is levied.

8. With above observations, the present writ petitions stand disposed of.

[NITIN W. SAMBRE, J.]