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

\+   **W.P.(C) 10760/2022, CM APPL. 31261/2022 and CM APPL. 31262/2022**

Date of Decision: 18.07.2022

IN THE MATTER OF:

GIAN CHANDER GROVER ..... Petitioner
Through: Mr. Sandeep Grover and Mr. Tarang Agarwal, Advocates

versus

MUNICIPAL CORPORATION OF DELHI ..... Respondent
Through: Mr. Akhil Mittal, Standing Counsel for MCD

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

MANOJ KUMAR OHRI, J. (ORAL)

1. By way of the present petition filed under Articles 226 and 227 of the Constitution of India, the petitioner seeks immediate de-sealing of the property bearing No. *224, 2nd floor, Royal Arcade, Plot 26, Community Centre, Pitampura, Delhi - 110034* (hereinafter, referred to as the '*subject premises*'). The petitioner has also assailed the revised demand of property tax raised by the respondent vide letter dated 21.03.2022.

2. Mr. Sandeep Grover, learned counsel for the petitioner submits that the petitioner, a 73-year-old senior citizen, is the owner and occupier of the subject premises and in spite of the fact that the petitioner had submitted all

property tax dues and charges to the respondent on time, the respondent, on 16.03.2018 without any prior intimation and/or issuance of any notice/communication erroneously and arbitrarily sealed the property and took possession of the same for recovery of alleged outstanding property tax dues. It is submitted that no details pertaining to the outstanding property tax were made available in the letter dated 16.03.2018.

He further submits that after repeated follow-ups and filing of RTI application/appeal, on 12.01.2022, copies of certain documents, including suo-moto assessment order dated 11.09.2017 and Show Cause Notice dated 19.12.2017 etc. were received from the respondent. It is submitted that after receipt of the aforesaid documents, the petitioner addressed a detailed representation to the respondent on 18.02.2022, *inter alia*, seeking withdrawal of the demands and requesting for de-sealing of the property.

3. Learned counsel for the petitioner submits that the respondent for the very first time, by way of impugned demand letter dated 21.03.2022 raised a fresh demand of Rs.88,505/- upto 31.03.2004 towards arrears of property tax and Rs.11,878/- i.e., difference of property tax w.e.f. 2004-05 to 2021-22. It is contended that the respondent vide letter dated 21.03.2022 is seeking to re-open assessment after a period of 17 years.

4. Issue notice.

5. Learned Standing counsel for the respondent accepts notice and, on the other hand, submits that the aforesaid demand was earlier raised by way of Notice dated 13.02.2018 issued under Sections 156 and 446 of the Delhi Municipal Corporation Act, 1957. He contends that under Section 169 of the Act, the demand is appealable before the Municipal Taxation Tribunal (hereinafter, referred to as *'the Tribunal'*).

6. Learned counsel for the petitioner has disputed the receipt of the aforesaid Notice. He, on instructions, submits that the subject premises are lying sealed since 16.03.2018. He has referred to the decision passed by this Court in Kanishka Impex Pvt. Ltd. *v.* South Delhi Municipal Corporation and Others reported as **2022 SCC OnLine Del 1854**, wherein submissions made on behalf of the Govt. of NCT of Delhi were noted to the effect that all the posts in the Tribunal, as on that date, were lying vacant and expeditious steps would be undertaken for its constitution. Learned counsel has also placed reliance on the judgment dated 20.12.2021 passed by a Co-ordinate Bench of this Court in Mother Dairy Fruit and Vegetable Pvt. Ltd. *v.* East Delhi Municipal Corporation, **W.P. (C) 14585/2021**, wherein subject to the petitioner continuing to pay property tax as per the base assessment year of 2004, it was directed that no coercive steps be taken against it.

7. At this stage, learned counsel for the petitioner, on instructions, submits that the petitioner shall continue to pay property tax in the manner adopted so far. He also seeks liberty for the petitioner to pursue appropriate recourse before the Tribunal as and when the same becomes functional.

He, without prejudice to the petitioner's challenge to the aforesaid demand of Rs.88,505/- upto 31st March, 2004 as well as subsequent challenge before the Tribunal, on instructions, further submits that the petitioner would deposit the aforesaid sum of Rs.88,505/- as well as Rs.11,878/- with the respondent within a period of one week from today. He prays that on such deposit being made, the subject premises may be directed to be de-sealed.

8. Learned Standing counsel for the respondent, on instructions, submits that on receipt of the aforesaid amount(s) and subject to respondent's right

being reserved to recover penalty/interest, the subject premises would be de-sealed within a period of two days thereafter.

9. In view of the submissions made on behalf of the parties, the present petition is disposed of with a direction to the petitioner to continue to pay property tax in the manner adopted so far, as undertaken by it. The petitioner shall also be at liberty to pursue appropriate remedy before the Tribunal within four weeks of commencement of its functioning. Further, the petitioner shall deposit the aforesaid amount(s) with the respondent within a period of one week from today, as undertaken by him and on proof of such deposit being furnished, the respondent shall de-seal the subject premises within two days thereafter.

10. Subject to the petitioner taking recourse before the Tribunal in accordance with law in the time permitted and continuing to pay property tax in the manner adopted so far, no coercive steps be taken against it till listing of the appeal. It is clarified that continuation of interim protection thereafter shall be subject to the orders to be passed by the Tribunal. Miscellaneous applications are disposed of as infructuous.

11. Needless to state that this Court has not gone into the merits of the contentions raised on behalf of either of the parties. As such, the rights and contentions of the parties shall remain reserved.

(MANOJ KUMAR OHRI)
JUDGE

JULY 18, 2022
na

Click here to check corrigendum, if any