IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10544 of 2017

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Ismat Banow wife of Md. Abu Bashar, Resident of Mohalla- Pathar Ki Masjid, P.O. and P.S.- Sultanganj, Patna- 800006, District- Patna.

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The Patna Municipal Corporation, through its Town Copmmissioner, Buddha Marg, Patna.
3. The Town Commissioner-cum-Chief Executive Officer, Patna Municipal Corporation, Buddha Marg, Patna.
4. The Administrator, Patna Municipal Corporation, Patna.
5. The Executive Officer, Patna Municipal Corporation, Bankipur Circle, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajesh Mohan, Advocate
For the Respondent/s	:	Mr. Abbas Haider- SC6
For the Patna Municipal Corp.	:	Mr. Prabhakar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

6 17-07-2023 Heard the parties.

The petitioner has knocked the doors of this Court for quashing of the demand dated 25.05.2017 amounting to Rs. 1,70,176/- against the property tax issued by the respondent, Patna Municipal Corporation (henceforth, for short 'the PMC').

The matter relates to a three storied building in Circle No. 56, Holding No.12/12, Sultanganj, Patna in which on the ground floor, her husband is running a shop in the name and style of M/s Rajdhani Arms, situated on the main road at Pathar-Ki-Masjid within Sultanganj police station, District of Patna.

In 1998, it got a demand notice of Rs. 68,544/- against the fresh annual rental value for her house for which an objection was filed on 06.03.1998 and thereafter, the matter remained pending. Then the petitioner preferred another representation for fresh measurement of her house on 03.01.2004.

Accordingly, after lapse of another five years, on 30.04.2009, an employee of the PMC prepared a measurement report, although no rent was fixed and subsequently, in 2011, another measurement was done in the presence of the house owner under the direction of the Executive Officer, PMC which followed one more representation by the petitioner.

In the meantime, the petitioner cleared the payment between 1998-2010.

Finally, the petitioner preferred CWJC No. 7554 of 2016, in which the following order was passed (Annexure 9 of the writ petition):

> *'the writ petition stands disposed of with liberty to the petitioner to file her self-assessment in the form/proforma prescribed under the statute within to weeks from today along with a copy of this order before the respondent no. 5. If the same is done, it*

shall be passed. If the authorities feel that they may be required to go for actual measurement, the same shall be done after giving notice to the petitioner and in her presence, within three weeks thereafter. On the basis of such measurement, if required and done, the final assessment order shall be passed. If the petitioner prays that some indulgence be given to her in view the demand being heavy, of allowing the amount to be paid in 4-5 installments, the same shall be considered. The authorities shall also take into consideration the fact that the holding tax shall be assessed after bifurcating and taking into account the actual area which is used for the shop and the residential purpose, in accordance with Rules 3 and 4 of the Rules.'

Accordingly, she submitted the details of her building whereafter a demand was issued on 25.05.2017 for Rs. 1,70,176/- which according to the learned counsel for the petitioner also included the period for which she had already made payment. Accordingly, she preferred representation. This followed the present writ petition.

Mr. Prabhakar Singh, learned counsel for ‘the PMC’ submits that the last assessment was made pursuant to the order of this Court and was actually the self-assessment of the petitioner which followed the demand of Rs. 1, 70,176/-.

He, however, is unable to answer whether this amount included the demand from 1998-2018 for which period (1998-2010), the petitioner claims the payments were already made and/or whether the difference amount for the period 1998-2010 has been included.

Taking into account the fact that so far as the tax part is concerned, in view of the self-assessment made by the petitioner, that needs no interference.

So far as her claim that the demand made by ‘the PMC’ includes the payments already made by her earlier, the same needs to be taken into account by ‘the PMC’ authorities.

It has been submitted by the learned counsel for ‘the PMC’ that presently, the update payments have been made by the petitioner.

In that view of the matter, the writ petition stands disposed of with a direction to the petitioner that if she feels that the said demand notice includes the amount that she had already paid, she can preferred a representation within four weeks from today with that specific prayer.

If such representation is preferred, the respondent, Municipal Commissioner shall be duty bound to take a decision within a period of three months from the date of filing of the representation.

The writ petition stands disposed of with that limited purpose.

(Rajiv Roy, J)

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