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

\+ W.P.(C) 632/2024

KAMESHWAR KUMAR RAI & ORS. ..... Petitioners

Through: Mr. B. B. Gupta, Sr. Adv. alongwith Ms. Medha Tandon, Mr. Achal Gupta and Mr. Ravi Dali Parthi, Advs.

versus

NEW DELHI MUNICIPAL COUNCIL & ANR. ..... Respondents

Through: Mr. R. K. Dhawan, Adv. alongwith Mr. V. K. Teng, Ms. Shivani Taneja and Ms. Anwesha Singh, Advs. for NMDC.

Mr. Sanjay Sharma, Addl. SC (NDMC) alongwith Mr. Ankit Goel, Asst. Law Officer.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

O R D E R

% **05.02.2024**

CM APPL. 2756/2024 (Exemption from filing certified/true copy of annexures)

Allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 632/2024&CM APPL. 2755/2024(Stay)

1. The present petition has been filed by the petitioners seeking quashing of notice of demand dated 27.10.2023 under Section 100 of New Delhi Municipal Council Act, 1994, Property Tax Bill No.246011 dated 06.11.2020, Notice of Demand dated 09.07.2021 under section 100 of New Delhi Municipal Council Act, 1994, Property Tax Bill No.262063 dated

12.11.2021, Bifurcation Order dated 12.03.2020, Letter dated 08.08.2022, Property Tax Bill no.280054 dated 02.09.2022 and Property Tax Bill no. 301692 dated 23.05.2023 issued by the respondents. The impugned notices/ letters concern computation of property tax in respect of property being First Floor, 5 Babar Lane, Bengali Market, New Delhi – 110001 (admeasuring 167.20 sq. mt.).

2. It is contended by the learned senior counsel for the petitioners that the impugned bills/demands have been issued in utter disregard and in derogation of the provisions of the NDMC Act, 1994.

3. It is submitted that the petitioners are only the owners of the first floor of the property in question. However, the impugned bills/demands have been raised on the petitioners on the rateable value of the entire property *viz.* Rs.15,64,900/-.

4. It is submitted that the entire building *viz.* the basement, the ground floor and the first floor was assessed at the rateable value of Rs.15,64,900/-. The said rateable value has to be bifurcated to work out the liability in respect of the first floor which is owned and occupied by the petitioners. It is contended that instead of bifurcating the rateable value proportionate to the portion of the building owned by the petitioners, the respondents have raised demand/s on the petitioners on the basis of the rateable value of the entire building.

5. It is further contended that the aforesaid is also contrary to the bifurcation order issued by the NDMC itself on 12.03.2020 annexed as Annexure P-12 to the present petition.

6. It is submitted that pursuant to receipt of the property tax bill for the year 2021, the petitioners made a series of representation(s) to the

respondents. However, the same have not been considered by the respondents.

7. After some hearing, learned senior counsel for the petitioners submits that NDMC be directed to treat the present writ petition itself as a representation and consider the request of the petitioners for withdrawing/revising the impugned bills/demands after affording an opportunity of hearing to the petitioners.

8. Mr. R. K. Dhawan, learned standing counsel appearing for the NDMC, draws attention to a letter dated 08.08.2022 issued by the NDMC which has purportedly decided the representation of the petitioners. The said letter/communication notes as under :-

"NEW DELHI MUNICIPAL COUNCIL
PALIKA KENDRA : NEW DELHI
(PROPERTY TAX DEPARTMENT)

No.T.I-(6)/857D.D(Tax) *Dated 08/8/2022*

MR. KAMESHWAR KUMAR RAI, MRS. AMITA RAI,
MR . ANSHUL RAI, MRS. SREOSHI CHATTERJEE,
FIRST FLOOR (MSG 167.20 SQ MT) AT, 5 BABAR LANE,
New Delhi-110001

Subject: Request to determine the Rateable value on the basis of Bye-Laws-2009. Regarding……….

Ref : Your letter dated 29.12.2021.

Sir/Madam ,

Please refer to the above cited subject and the letter under reference.

In this regard, it is informed that, the previous owner of the property Smt. Shakuntla Gupta had accepted the finalization of the rateable value of the property as per the provisions of Section-63(1) of NDMC Act, 1994.

Property Tax is levied on the property and not on the individuals, as such, the property which has once been assessed on the basis of Comparable Rent u/s 63(1) of NDMC Act, cannot be assessed on the basis of Unit Area Method, after the change of its ownership, in view of the Hon'ble Supreme Court judgement declaring the UAM as ultra-vires.

In of the above, your request cannot be acceded to.

Signed by Hari Singh
Date: 06-08-2022 11:53:37
Dy. Director (Tax)"

9. It is evident that the various contentions raised by the petitioners have not been duly considered while issuing the aforesaid letter/communication. In any event, no opportunity of hearing was provided to the petitioners by the respondents.

10. Accordingly, it is directed that the respondents shall treat the present writ petition as a representation and after hearing the petitioners, the respondents shall consider whether the impugned notices/demands need to be revised/withdrawn. Let a reasoned order be passed by the respondents within a period of four weeks from today. In the meanwhile, during the pendency of the aforesaid exercise, no coercive steps shall be taken by the respondents against the petitioners.

11. It is agreed by the respective counsel for the parties that the hearing shall be afforded to the petitioners by the concerned Director (Tax) of the respondents on 12.02.2024 at 04.00 pm. It is directed accordingly.

12. If petitioners are aggrieved with the outcome of the aforesaid exercise, the petitioners shall be at liberty to avail statutory remedies/legal remedies in accordance with law. The aforesaid representation of the petitioners shall be decided by the respondents without being influenced by the contents of the letter dated 08.08.2022.

13. The present petition, alongwith pending application, is disposed of in the above terms.

SACHIN DATTA, J

FEBRUARY 5, 2024/r