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

\+ W.P.(C) 520/2024 and CM APPL. 2336/2024

VINOD KUMAR KOHLI .....Petitioner

Through: Mr. Pradeep Aggarwal, Mr. Arjun Aggarwal, Mr. Sahil Gupta and Mr. Aman Kumar, Advocates.

versus

NEW DELHI MUNICIPAL COUNCIL .....Respondent

Through: Mr. Sunder Khatri, Additional Standing Counsel with Mr. Naman Khatri, Mr. Ravi Grover and Ms. Puja Chaurasia, Advocates for NDMC.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

O R D E R

% **17.02.2025**

1. This writ petition is preferred on behalf of the Petitioner under Article 226 of the Constitution of India seeking the following reliefs:-

> *"In view of the above facts and circumstances, it is most respectfully prayed that this Hon'ble Court may be pleased to issue a writ, order or direction in the nature of a writ of certiorari or any other appropriate writ or order or direction to quash/ set aside:*
>
> *(i) the Assessment Order No. A.O. No. T.I-(3)/867 D.D (Tax) dated 3.1.2024 (received on 5.1.2024). ("Annexure P-1");*
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> *(ii) Notice P.O.R. No. Notice U/S 72/2010-2011/6947/1542/DD/ Tax dated 28.2.2011 issued under Section 72 of the NDMC Act, 1994 ("Annexure P-2");*
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> *(iii) Notice P.O.R. No. Notice U/S 72/2018-2019/17125/1060/JDCO dated 29.3.2019 issued under Section72 of the NDMC Act, 1994 (Annexure P-3");*
>
> *(iv) Notice/Letter No. T.I-(3)/6131 DD (Tax) dated 21.12.2023 fixing the hearing on 11.1.2024 for assessment of property tax. ("Annexure P-4");*
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> *(v) Notice/Letter No. T.I-(3)/6309 DD (Tax) dated 21.12.2023 fixing the date of hearing at 16.1.2024 for assessment of property tax ("Annexure*

P-5");"

2. Petitioner is the owner of property bearing No.8, Sardar Patel Marg, New Delhi being a single unit residential property existing since 1959. On 28.02.2011, NDMC issued notice to the Petitioner under Section 72 of New Delhi Municipal Council Act, 1994 ('NDMC Act') proposing to enhance the existing Rateable Value ('RV') from Rs.51,800/- to Rs.5,50,800/- w.e.f. 01.04.2010. Objections were filed by the Petitioner on 31.03.2011. In 2014, Petitioner voluntarily assessed the property under Unit Area Method ('UAM') as per NDMC Byelaws of 2009.

3. Petitioner avers that in a batch of writ petitions filed before this Court the Division Bench vide judgment dated 10.08.2017 struck down the New Delhi Municipal Council (Determination of Annual Rent) Byelaws, 2009 and passed several other directions. This judgment was assailed before the Supreme Court and was upheld on 22.01.2019. NDMC without deciding the pending notice for several years issued another notice dated 29.03.2019 under Section 72 of the NDMC Act proposing to amend the Assessment List and increased the RV to Rs.5,50,800/- w.e.f. 01.04.2010 and to Rs.2,68,96,100/- w.e.f. 01.04.2018. Petitioner filed objections on 03.05.2019 to the notice.

4. It is further averred that on 05.11.2019, NDMC issued notice to the Petitioner for finalisation of notices dated 28.02.2011 and 29.03.2019 and directed him to appear on 21.11.2019. Another notice was issued on 02.12.2019 for appearance on 20.12.2019 on which date the Petitioner appeared and filed his reply. He also filed an affidavit dated 23.12.2019 bringing forth that he was one of the Petitioners in the writ petitions filed before the Division Bench and would continue to pay the property tax under

UAM. No order was passed by NDMC and after four years another notice dated 03/06.01.2023 was issued calling upon the Petitioner to appear on 10.01.2023. This notice was received on 12.01.2023 by the Petitioner and on 25.01.2023 he requested NDMC to fix another date of hearing. On 21.12.2023, NDMC issued another notice proposing to enhance the RV and calling upon the Petitioner to appear on 11.01.2024 with reference to notice No. 2018-19/17125. Similar notice was issued on 21.12.2023 with reference to notice No.2010-2011/6947 for appearance on 16.01.2024. However, without affording an opportunity of hearing, impugned Assessment Order was passed on 03.01.2024, without waiting for the dates of hearing and much prior thereto.

5. Learned counsel for the Petitioner submits that the impugned Assessment Order is in the teeth of the judgment of the Division Bench of this Court, upheld by the Supreme Court. Another glaring illegality is that there is violation of principles of natural justice inasmuch as NDMC has issued the Assessment Order dated 03.01.2024 prior to 11.01.2024 and 16.01.2024, the two dates on which personal hearing was fixed with respect to the two separate notices under Section 72 of the NDMC Act. Had the Petitioner been heard, he would have pointed out that his case falls squarely within the four corners of the judgment and increase of the RV to over 200 times was illegal. It is fairly urged that at this stage Petitioner seeks a limited relief of remanding the matter back to the Assessing Officer so that a personal hearing can be granted to the Petitioner and he may be given a chance to produce relevant documents and the judgements in his support.

6. Mr. Khatri, learned Additional Standing Counsel for NDMC does not dispute that the Assessment Order predates both the dates which were fixed

for personal hearing of the Petitioner and therefore, on instructions, has no objection for granting a personal hearing to the Petitioner and passing a fresh Assessment Order thereafter.

7. In light of the aforesaid stand of NDMC and finding merit in the contention of the Petitioner that the impugned Assessment Order was illegally passed without granting opportunity of hearing to the Petitioner and without awaiting for the dates fixed for personal hearing, this writ petition is partially allowed quashing the impugned Assessment Order dated 03.01.2024 on this short ground.

8. Accordingly, it is directed that a fresh notice will be issued by NDMC calling upon the Petitioner for a personal hearing with respect to notices bearing notice No. 2018-19/17125 and 2010-2011/6947. Notices will be issued well in advance of the dates fixed for hearing. On the dates fixed for personal hearing, Petitioner will be at liberty to produce all relevant documents in his support as also judgements he may wish to rely on. After the personal hearing is concluded, NDMC will pass a fresh Assessment Order and the same shall be communicated to the Petitioner, who may take resort to legal remedies in case of any grievance.

9. It is made clear that this Court has not expressed any opinion on the merits of the case and it is open to the Assessing Officer to pass the Assessment Order in accordance with law and uninfluenced by Assessment Order dated 03.01.2024.

10. Pending application stands disposed of.

JYOTI SINGH, J

FEBRUARY 17, 2025/shivam