$~4

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

% ***Date of Decision: 07th August, 2025***

\+ CM(M) 255/2023& CM APPL. 7720/2023

BELA DALMIA & ANR. .....Petitioner

Through: Mr. Ankur Mahindro with Mr. Rohan Taneja and Mr. Raghav Kalra, Advocates.

versus

NEW DELHI MUNICIPAL COUNCIL .....Respondent

Through: Mr. Ashwin Kataria, Advocates.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T ***(oral)***

1. A notice under Section 72 of New Delhi Municipal Council Act, 1994 (hereinafter referred as 'NDMC Act') was issued on 25.02.2002 by NDMC thereby proposing to enhance the existing rateable value of the property in question from Rs. 2,81,926 to Rs. 30,00,000/- .

2. Such notice was duly replied as the objections on behalf of concerned owner were submitted on 21.03.2002.

3. The property, in the interregnum, changed hands and the petitioners herein became the owner of the abovesaid property.

4. Fact, however, remains that the abovesaid notice and the consequent objections remained pending and were, eventually, decided by NDMC on 12.01.2016, whereby the objections were dismissed and the rateable value

was enhanced to Rs. 30,00,000/- with effect from 01.04.2001.

5. The abovesaid order passed under Section 72 of NDMC Act was, eventually, challenged by filing an appeal before the Court of learned District Judge, which was registered as HTA No. 202/2016.

6. Such appeal has been dismissed on 27.09.2022 and such order is impugned before this Court.

7. Learned counsel for the petitioners submits that the situation in hand is squarely covered by one judgment of learned Division Bench of this Court i.e. *Ved Marwah vs. New Delhi Municipal Council (NDMC) & Ors.: 2018 SCC OnLine Del 8096.* He submits that the abovesaid order has also attained finality as the *Special Leave Petition* (SLP) filed by NDMC was also dismissed on 01.08.2023.

8. It may be noted that the position in the *Ved Marwah* (supra) was also almost similar as therein also, there was inordinate delay in issuing order under Section 72 of NDMC Act.

9. Learned Division Bench noted that in one case, the delay was of 16 years, whereas in others, it was of 14 years. In the case in hand, as already noted that the notice was issued on 25.02.2002 and the eventual order has been passed on 12.01.2016 and, therefore, apparently, there is a time-gap of around 14 years between the issuance of notice and taking of final decision in the matter.

10. As per the abovesaid judgment, the contentions of the petitioners therein were to the following effect:-

"5. All the petitioners complain that the completion of assessment proceeding or the revision of the assessment lists, after an inordinate period renders the exercise of power unreasonable. It is urged that the assessing officers do not have the power to adjudicate upon issues that are in fact stale or conclude proceedings after an inordinate delay in such a way as to result in manifold liability on the part of the property owners which they would be unprepared to bear. According to the petitioners, the assessments pursuant to any given notice - either proposing a first-time assessment of any property or revision of the existing rateable value is to be completed within a reasonable period of not more than 3 years failing which the NDMC ceases to have any power to adjudicate upon such notices which should be considered stale."

11. Learned Division Bench after referring to certain precedents and hearing parties, came to the conclusion that the finalisation of assessment or its revision, after over 12 years could not be countenanced and, therefore, it was clearly unreasonable and arbitrary and called for interference. Resultantly, the final order of assessment was quashed, while observing as under:-

"18. In view of the above reasoning, it is held the impugned final orders of assessment and the demands issued are clearly unreasonable and void. They are hereby quashed. Consequently, it is held that the NDMC is at liberty to rework the assessments in respect of the properties that are the subject matter of these proceedings, by issuing fresh notices for the periods commencing from 3 years prior to the date on which the final notices were issued, and finalize the assessments within reasonable time. In the event of grievance on the part of the assessee to such fresh assessment orders, it is open to them to approach the appellate tribunal; provided they deposit the amount towards the tax liability for the base year."

12. Admittedly, the petitioners cannot earn any compassion *ipso facto* on the basis of the delay and the Court may come in their favour only if, it is

found that the delay was not attributable to him. Reference be made to *V. P. Aggarwal versus New Delhi Municipal Council: 2023 SCC OnLine Del 7505* wherein learned Division Bench of this Court has observed as under:-

> *"7. This Court in the judgment of Ved Marwah (supra) has held that the finalisation of the assessment proceedings after a delay of more than ten years was unreasonable and thus, liable to be set aside. In such cases of inordinate delay in finalisation of assessment proceedings what needs to be seen by the appellate authorities is that on whose account the proceedings were delayed. In cases where the assessees have fulfilled their obligations by submitting their objections and supporting documents to the authorities and it is the authorities who are delaying the adjudication process, then the assessees cannot be penalised for inaction of the authorities. However, this adjudication involves deciding disputed questions of facts, which cannot be done by this Court in writ proceedings. The petitioner is thus, required to raise his objections before the appellate authorities."*

13. When asked, learned counsel for respondent-NDMC submitted that, the objections were received by them on 21.03.2002 and the decision was taken in the month of January, 2016. During the intervening period, there was nothing to have prevented the Corporation from reaching any decision, either way, and, thus, the petitioners herein do not seem to be responsible for the delay.

14. In view of the above and in terms of the specific observations appearing in *Ved Marwah* (supra), the present petition is allowed and the assessment dated 12.01.2016 is hereby quashed.

15. Needless to say, New Delhi Municipal Council (NDMC) would be at liberty to issue fresh notice, in terms of *Ved Marwah* (supra) and to proceed further with the matter, in accordance with law, after giving due opportunity of hearing to the assessee.

16. Pending application also stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

AUGUST 7, 2025*/sw/JS*