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

\+ W.P.(C) 7389/2022 & CM APPL. 22613/2022

VIJAY NARAIN SETH & ANR. .....Petitioners

Through: Mr. Amardeep Singh, Mr. Zuhaib Mansoori, Advocates along with petitioners in person (M:9811111144)

versus

NEW DELHI MUNICIPAL COUNCIL .....Respondent

Through: Mr. Ashish Tiwari, Mr. Akshay Verma, ASC-NDMC, Mr. Sahib Patel, Advocate (M: 9971382986)

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

<u>O R D E R</u>

% **17.03.2025**

1. The present petition has been filed seeking to quash the demand of the property tax and recovery notices dated 28th January, 2021 and 04th March, 2021, issued by the New Delhi Municipal Council ("NDMC").

2. Learned counsel for the petitioners submits that the demand and recovery notices issued by the NDMC are purportedly based on Unit Area Method/ NDMC (Determination of Annual Rent) Bye Laws 2009 ("2009 Bye Laws"), which has since been declared as *ultra vires* by the Division Bench of this Court and upheld by the Hon'ble Supreme Court.

3. Thus, it is the case of the petitioners that the demand for property tax on the basis of Unit Area Method, as raised by NDMC, is not as per law.

4. Per contra, learned counsel for NDMC draws the attention of this Court to the property tax paid by the petitioners, as per the table given in the

reply, which is reproduced as under:

Receipt No.	Receipt Date	Receipt Amount
9255	14.03.2008	7,260/-
34744	31.03.2010	7,260/-
44856	27.01.2011	7,260/-
51611	19.12.2011	7,260/-
64490	11.10.2012	7,260/-
81059	28.04.2014	7,260/-
99612	29.09.2015	7,260/-
130057	23.01.2017	14,520/-
163697	05.02.2019	7,260/-
176314	07.08.2020	7,260/-
181090	09.12.2020	7,260/-
182713	19.12.2020	7,260/-

5. By referring to the aforesaid table, learned counsel for NDMC submits that property tax being paid by the petitioners cannot be said to be deposited under the Rateable Value, since the said deposited amount, is not proper, even as per the Rateable Value.

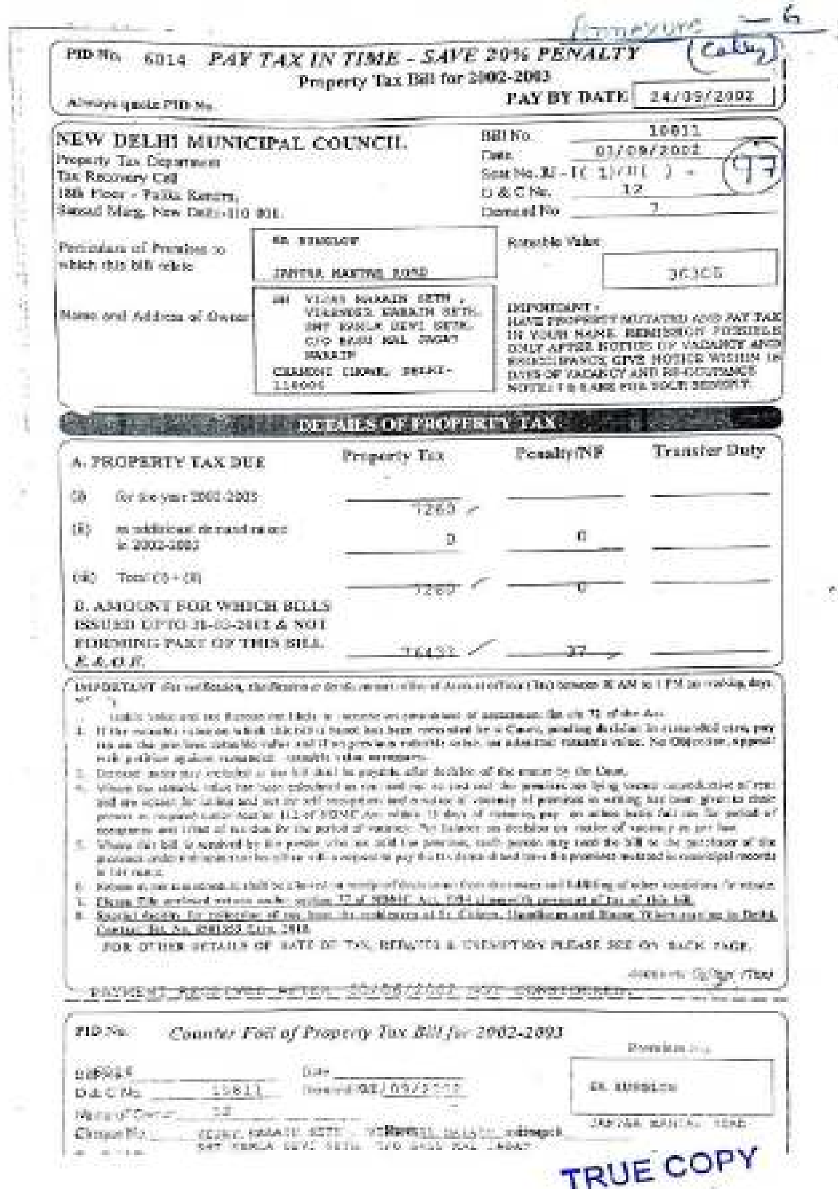
6. By referring to the aforesaid table, it is the case of the respondent-NDMC that huge dues to the tune of ₹ 1,59,98,382/-, are due and payable by the petitioners till 31st March, 2022. Learned counsel for the respondent submits that the demand for property tax, on the basis of Unit Area Method, is as per the judgment of the Supreme Court and is valid.

7. However, the said statement is disputed by learned counsel for the petitioners. It is the case of the petitioners that the petitioners have never paid any property tax under the Unit Area Method, and have only paid under the Rateable Value.

8. Therefore, he submits that the Supreme Court judgment would not be applicable to the facts and circumstances of the present case, for payment

under the Unit Area Method.

9. Learned counsel for the petitioners submits that the petitioners have already paid the property tax under the Rateable Value. He further draws the attention of this Court to the bill raised by the NDMC towards the property tax, which is reproduced as under:


Annexure – 6 (Colly)

PID No. 6014 *PAY TAX IN TIME - SAVE 20% PENALTY*

Property Tax Bill for 2002-2003

Always quote PID No.

PAY BY DATE 24/09/2002

NEW DELHI MUNICIPAL COUNCIL
Property Tax Department
Tax Recovery Cell
18th Floor - Palika Kendra,
Sansad Marg, New Delhi-110 001.

Bill No. 10011
Date 01/09/2002
D & C No. 12
Demand No 7

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Particulars of Premises to which this bill relate: JANTAR MANTAR ROAD

Rateable Value: 36305

Name and Address of Owner: SH VIKAS NARAIN SETH, VIRENDER NARAIN SETH, SMT KAMLA DEVI SETH, C/O BABU RAM JAGAT NARAIN, CHANDNI CHOWK, DELHI-110006

IMPORTANT:
HAVE PROPERTY MUTATED AND PAY TAX IN YOUR NAME. REMISSION POSSIBLE ONLY AFTER NOTICE OF VACANCY AND REOCCUPANCY. GIVE NOTICE WITHIN 15 DAYS OF VACANCY AND RE-OCCUPANCY.

DETAILS OF PROPERTY TAX

A. PROPERTY TAX DUE	Property Tax	Penalty/NF	Transfer Duty
(i) for the year 2002-2003	7260		
(ii) as additional demand raised in 2002-2003	0	0	
(iii) Total (i) + (ii)	7260	0	
B. AMOUNT FOR WHICH BILLS ISSUED UPTO 31-03-2002 & NOT FORMING PART OF THIS BILL. E.&O.E.	16433	37	

FOR OTHER DETAILS OF RATE OF TAX, REBATES & EXEMPTION PLEASE SEE ON BACK PAGE.

Counter Foil of Property Tax Bill for 2002-2003

D & C No. 10011

TRUE COPY

10. This Court notes that statutory appeal under Section 115 of the New Delhi Municipal Council Act, 1994, is available as an alternate remedy to

the petitioner for challenging the levy or assessment of any tax under the said tax.

11. As the present petition has been pending before this Court, since the year 2022, petitioners are at liberty to file the record of this Court before the learned District Judge, before whom the appeal shall be filed, for the purposes of making his submissions before the said Authority.

12. Accordingly, considering the facts and circumstances of the present case, the petitioners are directed to file appeal, as per law.

13. Let the needful be done by the petitioners within an outer limit of four weeks from today.

14. This Court notes that *vide* order dated 12th May, 2022, this Court had noted the statement on behalf of the respondents as follows:

> *"xxx xxx xxx*
>
> *3. Mr. Akshay Verma, learned ASC for the respondent, accepts notice and has disputed the submissions made on behalf of the petitioners. He, however, seeks some time to take instructions and to file Reply. Learned ASC also fairly submits that no precipitate action would be taken against the present petitioners in pursuance of the recovery notices issued on 28.01.2021 and 04.03.2021 till the next date of hearing.*
>
> *xxx xxx xxx"*

15. Accordingly, it is directed that the aforesaid statement made on behalf of the respondent-NDMC, shall continue during the pendency of the appeal before the learned District Judge.

16. In view of the aforesaid, the present writ petition, along with pending application, stands disposed of.

MINI PUSHKARNA, J

MARCH 17, 2025/au