

Saroj Tandon vs New Delhi Municipal Council on 26 August, 2021

Author: Sanjeev Sachdeva

Bench: Sanjeev Sachdeva

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 3932/2021
SAROJ TANDON

Through Mr. M.A. N
Niyazi, Mr
Nehmat Set

versus

NEW DELHI MUNICIPAL COUNCIL
Through Mr. Arjun Mitra, St
Mr. Rahul Singh, Ad
NDMC

CORAM:
HON'BLE MR. JUSTICE SANJEEV SACHDEVA
ORDER

% 26.08.2021 CM APPLN. 27839/2021 (directions)

1. The hearing was conducted through video conferencing.
2. Petitioner seeks a direction to the respondent to provide the proposed and final authentic list for the year 2020-21 for the purposes of compliance of order dated 14.07.2021 passed in this petition.
3. By order dated 14.07.2021, assessment with regard to the property of the petitioner was set aside and the matter was remitted to the Assessing Authority to pass a fresh assessment order in accordance with law.
4. Petitioner was also given an opportunity to produce additional material, if any, in support of their submissions.

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to HMJ Sanjeev Sachdeva.

5. Learned counsel appearing for the petitioner submits that in support of his claim for assessment, Petitioner seeks to rely on the assessment with regard to the other properties in the area.

6. He submits that when petitioner approached the respondent for providing a copy of the assessment list in terms of Section 70 of the New Delhi Municipal Council Act, 1994 (hereinafter referred to as the Act) , same has been denied and a copy has not been provided.

7. Learned counsel for the petitioner relies upon Sections 70(2) and 70(7) of the Act to contend that the proposed assessment list and the final authenticated list is a public document open to certain categories of persons mentioned in the said section for inspection and taking extracts therefrom.

8. The categories of persons mentioned in sub-section (2) and (7) of Section 70 of the Act are "every person claiming to be owner, lessee or occupier of any land or building included in the list and any authorized agent of such person". Petitioner claims to be one of the persons whose property is included in the assessment list.

9. Learned counsel for the petitioner submits that though Section 70 of the Act provides that extracts of the list can be obtained free of charge, petitioner is willing to bear the actual cost of preparing extracts and providing to the petitioner.

10. Learned counsel for the petitioner submits that petitioner is Digitally Signed Digitally Signed By:KUNAL SACHDEVA MAGGU Signing Date:26.08.2021 Signing Date:27.08.2021 08:12:05 23:09 This file is digitally signed by PS to HMJ Sanjeev Sachdeva.

seeking an extract of the list comprising of the properties in Khan Market area so that a comparison can be drawn with regard to the assessment of the property of the petitioner, vis-à-vis the other properties.

11. He submits that in the past also similar extracts of the list have been provided by the respondent to various individuals. As an example, he has annexed copies of the assessment lists for certain years as Annexure-P5 to the petition.

12. Application is opposed by learned counsel for the respondent. Learned counsel for the Respondent submits that Section 70(2) of the Act permits inspection of the list. However, extract which is mentioned in Section 70(2) of the Act is the extract of the property of the applicant and not an extract of other properties or the entire list.

13. Learned counsel submits that petitioner cannot be provided either the entire list or extracts of the list comprising of properties other than the properties of the petitioner which are included in the list.

14. Learned counsel relies on the decision of the Supreme Court in Gurudevudutta Vksess Maryadit &

Ors. Vs. State of Maharashtra (2001) 4 SCC and Nathi Devi Vs. Radha Devi Gupta (2005) 2 SCC 271 to contend that while interpreting a statute Court should make efforts to give meaning to each and every word used by the legislature and not brush aside words in a statute as being inapposite surpluses.

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15. Learned counsel submits that the expression used in the Act is 'extracts' which implies that copy of the entire list cannot be provided and only an extract of the list is to be provided.

16. Learned counsel submits that since the said Section provides inspection to only those persons who are owners, lessees or occupiers of any land or building included in the list, the word 'extract' should be restricted to the property of the applicant and not the properties with which applicant has no connection.

17. Learned counsel further submits that the purpose of asking for the extract is redundant as it would be purely an academic exercise and could have been relevant in case the property of the petitioner was vacant and/or self-occupied.

18. Section 70 of the Act reads as under:-

"70. Assessment list.

(1) Save as otherwise provided in this Act, the Council shall cause an assessment list of all lands and buildings in New Delhi to be prepared in such form and manner and containing such particulars with respect to each land and building as may be prescribed by bye- laws. (2) When the assessment list has been prepared the Chairperson shall give public notice thereof and of the place where the list or a copy thereof may be inspected, and every person claiming to be the owner, lessee or occupier of any land or building included in the list and any authorised agent of such person, shall be at liberty to inspect the list and to take extracts therefrom free of charge.

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(3) The Chairperson shall, at the same time, give public notice of a date, not less than one month thereafter, when he will proceed to consider the rateable values of lands and buildings entered in the assessment list; and in all cases in which any land or building is for the first time assessed, or the rateable value of any land or building is increased, he shall also give written notice thereof to the owner or to any lessee or occupier of the land or building.

(4) Any objection to a rateable value or any other matter as entered in the assessment list shall be made in writing to the Chairperson before the date fixed in the notice and shall state in what respect the rateable value, or other matter is disputed, and all objections so made shall be recorded in a register to be kept for the purpose.

(5) The objections shall be inquired into and investigated, and the persons making them shall be allowed an opportunity of being heard either in person or by authorised agent, by the Chairperson or by any officer of the Council authorised in this behalf by the Chairperson.

(6) When all objections have been disposed of, and the revision of the rateable value has been completed, the assessment list shall be authenticated by signature of the Chairperson or, as the case may be, the officer authorised by him in this behalf, who shall certify that except in the case, if any in which amendments have been made as shown therein, no valid objection has been made to the rateable value or any other matter entered in said list.

(7) The assessment list so authenticated shall be deposited in the office of the Council and shall be open, free of charge during office hours to all owners, lessees and occupiers of lands and buildings comprised therein or the authorised agents of such persons, and a public notice that it is so open shall forthwith be published.

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19. Section 70(2) of the Act stipulates that where an assessment list has been prepared, the Chairperson shall give public notice thereof of the place where the list or a copy thereof may be inspected, and further every person claiming to be the owner, lessee or occupier of any land or building included in the list and any authorised agent of such person, is granted liberty to inspect the list and to take extracts therefrom free of charge.

20. It is an admitted case of the respondents themselves that the list is open for inspection to all persons who satisfy the criteria as mentioned in sub-section (2).

21. Similarly sub-section (7) stipulates that once assessment list is authenticated in the manner as prescribed in Section 70 of the Act the assessment list has to be deposited in the office of the Council and shall be open, free of charge during office hours to all owners, lessees and occupiers of lands and buildings comprised therein or their authorised agents and a public notice that it is so open has to be published.

22. The expression used in sub-section (2) is 'to take extracts therefrom'. The word extracts has not been qualified by the legislature with the words 'own property' as is sought to be contended on behalf of the respondent.

23. The purport of the Act is that a person who satisfies the criteria mentioned in sub-section (2) is entitled to an inspection of the entire Digitally Signed Digitally Signed By:KUNAL SACHDEVA MAGGU Signing Date:26.08.2021 Signing Date:27.08.2021 08:12:05 23:09 This file is digitally signed by PS to HMJ Sanjeev Sachdeva.

list and also take extracts from the list. Further the word 'extracts' is used in plural and not in singular which implies that the said person can take extract of more than one entry.

24. Since the entire list is open for inspection, there does not seem to be any reason to restrict taking of extracts of multiple entries in the list or restricting the extracts only to the land or building of the applicant.

25. The judgments in the case of Gurudev dutta (supra) and Nathi Devi (Supra) relied upon by learned counsel for the Respondent do not support the case of the respondent. Rather they support the case of the petitioner in as much as they lay down that every word and/or expression used by the legislature has to be given a meaning.

26. As noticed herein above, legislature has used the expression 'extracts' in plural. Legislature has not qualified the word 'extracts' for it to be given a restrictive meaning. Courts while interpreting the statute will not supplement the statute with additional words when the words are clear, plain, unambiguous and reasonably susceptible to only one meaning.

27. The entries that are contained in the list are property number, name and address of owner and its rateable value.

28. At the time when the list is open for inspection, no embargo is provided by the statute on the person, inspecting the list, to take down Digitally Signed Digitally Signed By:KUNAL SACHDEVA MAGGU Signing Date:26.08.2021 Signing Date:27.08.2021 08:12:05 23:09 This file is digitally signed by PS to HMJ Sanjeev Sachdeva.

notes of the list. If a person while inspecting the list can obtain information as contained in the list of other properties, there seems to be no justification in depriving said individuals from taking extracts of the list of other properties. Rather it would save the time of respondent themselves who have to make the list available for inspection.

29. No reasonable explanation has been provided by the Respondents for depriving the petitioner of the extract of the list containing details of all the properties of Khan Market.

30. When, admittedly, the entire list is open for inspection and Petitioner can inspect and take down details of all the properties of Khan market, it does not seem to logic as to why petitioner should be deprived of an extract of the same.

31. Further reading of sub-section (7) shows that the final authenticated list shall be open free of charge during office hours to all specified persons.

32. Reading sub-section (7) with sub-section (2) the expression open would have to be construed as open for inspection and also obtaining the extract as stipulated in sub-section (2).

33. Thus petitioner would be entitled to a copy of the assessment list authenticated in terms of sub-section 7 of Section 70.

34. In view of the above, respondent-Council cannot deny to Digitally Signed Digitally Signed By:KUNAL SACHDEVA MAGGU Signing Date:26.08.2021 Signing Date:27.08.2021 08:12:05 23:09 This file is digitally signed by PS to HMJ Sanjeev Sachdeva.

provide the extract of the list as demanded by the petitioner.

35. Though Section 70(2) stipulates that the extract shall be provided free of charge, since petitioner has volunteered that petitioner shall bear the actual cost of providing the said extract, respondents are directed to provide the extract of the list to the petitioner. Petitioner shall pay the actual cost of preparing the extract.

36. In view of the above, this application is allowed. Respondents are directed to furnish to the petitioner the extract demanded by the petitioner of the assessment list for the year 2020-21 within a period of one week from today.

37. Consequently, the time granted to the petitioner by order dated 14.07.2021 to produce additional material in support of their submission is extended by further period of one week from date of supply of the list

38. Application is disposed of in the above terms.

39. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.

AUGUST 26, 2021/'rs'

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