

# Neelima Tripathi vs New Delhi Municipal Council & Ors on 10 September, 2021

**Author: Jyoti Singh**

**Bench: Chief Justice, Jyoti Singh**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 9968/2021

NEELIMA TRIPATHI

..... Petition

Through: Mr. Raj Shekhar Rao, Senior Advocate  
with Mr. Srinivasan Ramaswamy and Mr. Vinay  
Malhotra, Advocates

versus

NEW DELHI MUNICIPAL COUNCIL & ORS. .... Respondents

Through: Mr. Vipul Ganda, Advocate for R-1 &  
Mr. Vijay Joshi, Advocate for R-3

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% 10.09.2021 Proceedings have been conducted through video conferencing. CM No.30741/2021 (Exemption) Allowed, subject to all just exceptions.

Application stands disposed of.

CM No.30742/2021 (exemption from filing duly attested affidavits) Present application has been filed seeking exemption from filing duly attested affidavit. Application is disposed of with a direction to the Applicant to file the same within 72 hours from the date of resumption of regular functioning of the Court.

W.P.(C) 9968/2021 and CM No.30740/2021 (interim relief) Issue notice.

W.P.(C) 9968/2021 page 1 of 3 Mr. Vipul Ganda, Advocate accepts notice on behalf of Respondents No. 1 and 2 and seeks time to file counter affidavit.

Mr. Vijay Joshi, Advocate accepts notice on behalf of Respondent No. 3 and seeks time to file counter affidavit.

Time as prayed for is granted.

Let counter affidavits be filed by Respondents No. 1, 2 and 3 before the next date of hearing.

Learned Senior Counsel appearing for the Petitioner contends that the impugned notice dated 17.08.2021 issued under Section 72 of New Delhi Municipal Council Act, 1994, is completely illegal and arbitrary inasmuch as the rateable value of the property in question, for the purpose of computation of property tax, has been sought to be increased to an exorbitant amount of Rs. 2,52,50,000/- w.e.f. 29.07.2021. According to the learned Senior Counsel, the purported action is taken under Section 63(2) of the NDMC Act, 1994, which provision suffers from the vice of unreasonable classification and is ex facie unconstitutional in view of the fact that levy at a fixed rate of 5% of the estimated capital value does not in any manner co-relate to annual letting value of the land arrived at by taking into consideration factors such as nature, purpose, location, age, etc. Therefore, what Section 63(2) achieves is that the true incidence of the levy is camouflaged as a percentage of the price at which the building was purchased or the circle rate in cases where the circle rate is greater than the market rate, thereby leaving it to the whims of Respondent No. 1 and, therefore, the vires of Section 63(2) has been questioned in the present petition, amongst other grounds, to assail the impugned notice.

W.P.(C) 9968/2021 page 2 of 3 Learned Senior Counsel has also drawn the attention of this Court to numerous orders passed by the Division Benches of this Court in somewhat similar circumstances wherein interim orders have been passed protecting the Petitioners therein and which have been annexed as Annexure P-6 "Colly." to the present petition.

We have heard the learned counsels for the parties and perused the provisions of Section 63(2) as well as the interim orders passed by different Division Benches of this Court. In our view, Petitioner has been able to make out a prima facie case for grant of ad interim order and the balance of convenience is also in favour of the Petitioner. In case the impugned notice is not stayed, irreparable injury shall be caused to the petitioner.

Looking to the reasons given in para 6 of the impugned notice and the fact that from a rateable value of Rs. 6,81,400/-, the same has been enhanced to Rs. 2,52,50,000/-, which prima facie appears to be exorbitant, we hereby stay the operation of the impugned notice dated 17.08.2021 issued by Respondents No. 1 and 2 under Section 72 of the New Delhi Municipal Council Act, 1994, till the next date of hearing.

List on 08.11.2021.

SEPTEMBER 10, 2021/yg

W.P. (C) 9968/2021