

Smt Nandita Tuli vs New Delhi Municipal Council & Anr on 15 January, 2021

Author: Sanjeev Sachdeva

Bench: Sanjeev Sachdeva

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IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P.(C) 675/2021
SMT NANDITA TULI

Through:

Mr. Sudhanshu
Advocate with
Mr. Sanyam
Goyal and M

versus

NEW DELHI MUNICIPAL COUNCIL & ANR..... Resp
Through: Mr. Gaurave Bhargava,
Standing Counsel with
Vikram Singh, Assistant
Counsel, NDMC.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% 15.01.2021 CM APPL.1634/2021 (exemption) Exemption is allowed subject to all just exceptions.

W.P.(C) 675/2021 & CM APPL.1633/2021

1. The hearing was conducted through video conferencing.

2. Petitioner impugns assessment order dated 18.12.2020 passed by the respondent NDMC under Section 72 of the NDMC Act, 1994 revising the rateable value from Rs.6,96,100/- to Rs.1,01,11,665/- retrospectively w.e.f. 01.09.2013 purportedly under the provisions of Section 63(2) of the NDMC Act and the bill dated 22.12.2020.

MAGGU W.P(C) 675/2021 Page 1 Signing Date:15.01.2021 22:40:31 This file is digitally signed by PS to HMJ Sanjeev Sachdeva.

3. Learned senior counsel for the petitioner contends that filing of an appeal would not be inexpedient as it would place an onerous burden on the petitioner as such the petitioner has approached this Court under Article 226 of the Constitution of India. He relies on the decisions of this Court in Chemical Sales Corporation vs. New Delhi Municipal Committee, 1996 V AD Delhi, 89, 64(1996) DLT 160 and Alok Exports Pvt Ltd vs. New Delhi Municipal Council, 2002 III AD Delhi

539, 2002 (62) DRJ 27 to contend that the impugned order is ex facie without jurisdiction and a writ petition would be maintainable.

4. Learned senior counsel further submits that the respondents have been raising bills from 2011 till date on unit area method which bills have been duly paid.

5. Learned senior counsel relies on the decision of the Supreme Court dated 22.01.2019 in Civil Appeal No.903-930/2019, New Delhi Municipal Council vs. Association of concerned Citizens of New Delhi and Ors to contend that the Supreme Court in exercise of powers under Article 142 of the Constitution of India has directed that all assesses who have paid the tax as per the bye-laws of 2009 (i.e. n unit area method) their assessment shall not reopened. He contends that despite the direction by the Supreme Court under Article 142, not to reopen assessment of assesses who have paid the tax in terms of the demand raised on unit area method, impugned order has been passed.

6. Learned senior counsel further contends that even for the year 2020-2021 a property tax bill was raised by the respondents on unit MAGGU W.P(C) 675/2021 Page 2 Signing Date:15.01.2021 22:40:31 This file is digitally signed by PS to HMJ Sanjeev Sachdeva.

area method and the same has been duly paid and apart from the impugned demand nothing is due and payable to the respondents.

7. Learned senior counsel further contends that despite the respondents having already raised a bill for the year 2020-2021 and the same having been paid, a second bill dated 22.12.2020 has been raised for the same period after the impugned order.

8. Issue notice. Notice is accepted by learned counsel appearing for the respondents who prays for time to file counter affidavit. Let the same be filed within four weeks. Rejoinder within four weeks thereafter.

9. List on 24.03.2021.

10. In the meantime, no coercive action shall be taken by the respondents for recovery of the bill dated 22.12.2020 till the next date of hearing.

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

JANUARY 15, 2021
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W.P(C) 675/2021

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