

Supreme Court of India

P N Kumar And Another vs Municipal Corporation Of Delhi on 2 November, 1987

Equivalent citations: 1988 SCR (1) 732, 1987 SCC (4) 609

Author: E Venkataramiah

Bench: Venkataramiah, E.S. (J)

PETITIONER:

P N KUMAR AND ANOTHER

Vs.

RESPONDENT:

MUNICIPAL CORPORATION OF DELHI

DATE OF JUDGMENT 02/11/1987

BENCH:

VENKATARAMIAH, E.S. (J)

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VENKATARAMIAH, E.S. (J)

SINGH, K.N. (J)

CITATION:

1988 SCR (1) 732

1987 SCC (4) 609

JT 1987 (4) 232

1987 SCALE (2) 901

ACT:

Order issued by the Deputy Assessor and Collector OF Assessment and Collection Department of the Municipal Corporation of Delhi for payment of a composite amount of property tax, fire tax, water tax, scavenging tax and education tax-A writ of certiorari in respect thereof.

HEADNOTE:

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The Deputy Assessor and Collector of the Assessment and Collection Department of the Municipal Corporation of Delhi, issued an order to the petitioners, demanding payment of Rs.14,07,328 as composite arrears of the property tax, fire tax, water tax, scavenging tax and education tax. The petitioners moved this Court under Article 32 of the Constitution for the issuance of a writ of certiorari, quashing the demand order.

Disposing of the Writ Petition, without expressing any opinion on the merits of the case, and allowing liberty to the petitioners to file, if so advised, a writ petition before the High Court under Article 226 of the F. Constitution, the Court,

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HELD: The scope of the powers of the High Courts under

Article 226 of the Constitution is wider than the scope of the powers of this Court under Article 32 of the Constitution. The relief prayed for in the petition is one which may be granted by the High Court. Any party aggrieved by the decision of the High Court can appeal to this Court. That some case involving the same point of law is pending in this Court, is no ground for this Court to entertain a petition, by-passing the High Court. If the parties get relief in the High Court, they need not come to this Court, and, to that extent, the burden on this Court is reduced. This Court has no time today even to dispose of cases which have to be decided by it alone. A large number of cases have been pending in this Court for ten to fifteen years. If no fresh cases are filed in this Court thereafter, this Court, with its present strength of Judges, may take more than 15 years to dispose of all the pending cases. If the cases, which can be filed in the High Courts, are filed there and not in this Court, the work of this Court in its original Jurisdiction, which is a time consuming process, can be avoided, and the time saved by this

733

Court by not entertaining the case which may be filed in the High Courts, can be utilized to dispose of the old matters, [734E-H; 735A-E]

This Court will also have the benefit of the decisions of the High Courts when it deals with an appeal against such a decision. The High Courts have judges of eminence, who have initiative, skill and enthusiasm. Their capacity should be harnessed to deal with every type of cases, arising from their respective areas, which they are competent to dispose of. If the cases, which may be filed in the High Courts are filed in this Court, this will affect the initiative of the High Courts. The dignity, majesty and efficiency of the High Courts should be preserved. The taking over by this Court of the work which the High Courts can handle, may undermine the capacity and efficiency of the High Courts, which should be avoided. [735E-F]

The hearing of a case at the level of a High Court is also more convenient from several angles and will be cheaper to the parties. That saves a lot of time too. It is easier for the clients to give instructions to the lawyers. There are eminent lawyers practising in the High Courts, with wide experience in handling different kinds of cases. The lawyers there are fully aware of every legislation in their States. [734G]

JUDGMENT:

ORIGINAL JURISDICTION: Civil Miscellaneous Petition No. 8678 of 1986.

IN Writ Petition No. 9 144 of 1983.

(Under Article 32 of the Constitution of India) G. Vishwanath Iyer, M.K.D. Namboodry and S. Balakrishnan for the Petitioners.

R.B. Datar and V.B. Saharya for the Respondent. The following order of the Court was delivered:

O R D E R In this Writ Petition the petitioners have prayed for the issue of a writ in the nature of certiorari or any other appropriate order or direction quashing the order No. Tax/HQ/Spl. Cell/83-1948 dated 4-8- 1983 issued by the Deputy Assessor and Collector of the Assessment and Collection Department of the Municipal Corporation of Delhi fixing the rateable value of the property of the petitioners at Rs.12,10,300 with effect from 9.6. 1981 and the consequent bill 180/II dated 4-8-1983 served on the petitioners making a demand of arrears of Rs. 14,07,328 as a composite amount of property tax, fire tax, water tax, scavenging tax and education tax and making any other order as the Court deems fit. The first petitioner is a shareholder and company secretary of the company M/s. Siddharth Inter-Continental Hotels (India) Ltd. and the second petitioner is M/s. Siddharth Inter-Continental Hotels (India) Ltd. On 26. 10. 1987 we passed an order adjourning the case to 2.11. 1987 to hear the learned counsel for the parties on the question whether the above petition under Article 32 of the Constitution should be decided by this Court or whether we should direct the petitioners to approach the High Court under Article 226 of the Constitution. Accordingly we have heard the learned counsel.

We are of the view that this petition should be disposed of without expressing any opinion on the merits of the case reserving liberty to the petitioners to file a petition, if so advised, before the High Court under Article 226 of the Constitution. We accordingly dispose of this petition for the following reasons:

1. The scope of the powers of the High Courts under Article 226 of the Constitution is wider than the scope of the powers of this Court under Article 32 of the Constitution
2. The relief prayed for in the petition is one which may be granted by the High Court and any of the parties who is dissatisfied with the judgment of the High Court can approach this Court by way of an appeal. The fact that some case involving the very same point of law is pending in this Court is no ground to entertain a petition directly by- passing the High Court.
3. If the parties get relief at the High Court, they need not come here and to that extent the burden on this Court is reduced.
4. The hearing of the case at the level of the High Court is more convenient from several angles and will be cheaper to the parties. It saves lot of time too. It will be easier for the clients to give instructions to their lawyers.
5. Our High Courts are High Courts. Each High Court has its own high traditions. They have judges of eminence who have initiative, necessary skills and enthusiasm. Their capacity should be

harnessed to deal with every type of case arising from their respective areas, which they are competent to dispose of.

6. Every High Court Bar has also its high traditions. There are eminent lawyers practising in the High Courts with wide experience in handling different kinds of cases, both original and appellate. They are fully aware of the history of every legislation in their States. Their services should be made available to the litigants in the respective States

7. This Court has no time today even to dispose of cases which have to be decided by it alone and by no other authority. Large number of cases are pending from 10 to 15 years. Even if no new case is filed in this Court hereafter, with the present strength of Judges it may take more than 15 years to dispose of all the pending cases.

8. If the cases which can be filed in the High Courts are filed in the High Court and not in this Court this Court's task of acting as original court which is a time consuming process can be avoided and this Court will also have the benefit of the decision of the High Court when it deals with an appeal filed against such decision.

9. If cases which may be filed in the High Courts are filed in this Court it would affect the initiative of the High Courts. We should preserve the dignity, majesty and efficiency of the High Courts. The taking-over by this Court of the work which the High Courts can handle may undermine the capacity and efficiency of the High Courts and that should therefore be avoided.

10. Lastly, the time saved by this Court by not entertaining the cases which may be filed before the High Courts can be utilised to dispose of old matters in which parties are crying for relief.

These are some of the reasons which have compelled us to pass this order.

S.L.

Petition disposed of