

(1989) 04 MP CK 0008

Madhya Pradesh High Court (Gwalior Bench)**Case No:** C.R. No. 158 of 1989

Balkishan

APPELLANT

Vs

Nagar Palika Nigam

RESPONDENT

Date of Decision: April 10, 1989**Acts Referred:**

- Madhya Pradesh Municipal Corporation Act, 1956 - Section 143(3)

Citation: (1991) 36 MPLJ 573 : (1991) MPLJ 573**Hon'ble Judges:** K.M. Agrawal, J**Bench:** Single Bench**Advocate:** B.S. Agarwal, for the Appellant; M.G. Khedkar, for the Respondent**Final Decision:** Allowed

Judgement

@JUDGMENTTAG-ORDER

K.M. Agarwal, J.

This is a revision by the owner of a building against assessment of property tax by the non-applicant.

The applicant is the owner of a double storied building situated in Daulatganj, Lashkar, i.e. within the limits of Municipal Corporation, Gwalior (in short, the "Corporation"). By a notification published in M. P. Rajpatra dated 12-12-1980, the Corporation proposed to have survey for the purpose of assessment of each part of the city for the purpose of property tax in accordance with Section 143(3) of the M. P. Municipal Corporation Act, 1956 (in short, the "Act"). Accordingly in January 1983 proceedings were initiated for assessment of property tax in respect of the locality in which the applicant's aforesaid building was located. On the basis of the report by the Property Tax Inspector of the Corporation annual letting value of the building was assessed at Rs. 6,480/- by the Property Tax Officer, by treating monthly rent of the ground floor to be Rs. 250/- and the monthly rent of the first floor to be Rs.

350/-. After determination of the annual letting value of the building, the applicant was served with a notice u/s 146 of the Act, informing him about the proposed valuation and the tax imposed and calling upon him to submit his objections, if any, or to pay the amount of tax assessed. It was also mentioned in the notice that the tax was proposed to be imposed w. e.f. 1-1-1981. The applicant raised objection against the proposed assessment. It was contended by him that the ground floor of the building was let out to one Himachal Jail Centre for non-residential purpose on a monthly rent of Rs. 175/-. Accordingly the annual letting value of the ground floor of the building should not exceed Rs. 1,890/- (i.e. Rs. 2,100/- less 10%). It was further submitted by him that the first floor of the building was used by him and his family members for the purpose of residence. There was no alteration or addition in it and, therefore, there should not be any increase in the existing annual letting value of the first floor of the building. The applicant adduced evidence in support of his contention, but no evidence was adduced by the Corporation. The Property Tax Inspector accordingly upheld and finalized the proposed assessment of annual letting value- of Rs. 6480/-. Being aggrieved, the applicant filed an appeal u/s 149 of the Act before the District Judge. The appeal failed and, therefore, the applicant has preferred this civil revision before this Court.

Having heard the learned counsel for the parties, I am of the view that this revision deserves to be allowed. The report of the Property Tax Inspector has no evidentiary value in the absence of any statutory provision to that effect. The applicant adduced evidence in support of his contention that the ground floor of the building was let out to Himachal Jail Centre on a monthly rent of Rs. 175/- for non-residential purpose. No evidence in rebuttal was adduced by the Corporation. It must, therefore, be held that in the circumstances of the case, the Property Tax Officer committed an error in not relying on the evidence of the applicant and in not making the assessment of annual letting value of the ground floor of the building on the basis of its monthly rent of Rs. 175/-.

Admittedly the ground floor consists of two rooms and one store room, having a total area of 348 Sq. ft. It is being used for residential purpose and consists of a total area of 540 Sq. ft. Under the circumstances and in the absence of evidence from either side, the Property Tax Officer ought to have assessed the annual letting value of the first floor of the building by treating its monthly rent to be Rs. 175/-. In other words, the assessment of annual letting value of the entire building ought to have been made by treating the rent of the entire building to be Rs. 350/- p.m. If calculated in this fashion, the annual letting value of the building would come to Rs. 3,780/- (Rs. 4,200/- less 10%).

The notice for assessment u/s 145 of the Act was issued first in the month of January 1983. I am, therefore, of the view that the assessment of the annual letting value of the building would come into force from 1-4-1983 i.e. to say from the financial year 1983.

For the reasons aforesaid, this revision succeeds and it is hereby allowed. In the circumstances of the case I direct the parties to bear their costs as incurred throughout. The applicant shall be liable to pay property tax w.e.f. 1-4-1983 on the annual letting value of Rs. 3,780/- of the building.