

**(2001) 11 DEL CK 0093**

**Delhi High Court**

**Case No:** CW No. 4392 of 1999

Municipal Corporation of Delhi

APPELLANT

Vs

Mohd. Ishaq and Another

RESPONDENT

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**Date of Decision:** Nov. 22, 2001

**Citation:** (2002) 95 DLT 398

**Hon'ble Judges:** Manmohan Sarin, J

**Bench:** Single Bench

**Advocate:** Amita Gupta, for the Appellant; Zafar Siddique, for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

1. Rule.
2. With the consent of the parties, writ petition is taken up for disposal.
3. By this writ petition, petitioner seeks quashing of judgment dated 13.1.1998, passed by the Additional District Judge, Delhi in House Tax No. 556/97.
4. Learned counsel for the petitioner urged before me that petitioner/MCD is entitled to charge at commercial rates, since the premises were being used by the assessed for commercial purpose. She relied on a so called admission in an Inspection Report. Respondent No. 1 happens to be an illiterate person, who signs only in vernacular. Learned Additional District Judge while dealing in his order held that, "Even in the Inspection Report, it has been mentioned that the property is self-occupied and Phatta and Ballies are alleged to have been found in the premises. Keeping of the Phatta and Ballies, itself does not make the property commercial. It is admitted that the property is situated in the residential colony. The Assessing Authority should have been taken the residential rate for assessing the property."
5. I have perused the original records, as produced. No doubt in the form of objections filed, it is mentioned that the structure is of tin shed. However, the sale deed, produced on record, showed the structure of a room. In the column date of

occupation, the objections clearly state, "Residential dated 25.5.85." Again as regards so called admission, it is to the following effect:

"Mohd. Ishaq attended today regarding the assessment of property No. G-194, Dilshad Extension-I, and admits the recorded accommodation shown in Form No. 76/62 and says that the premises is being used by him as self-occupied. Mohd. Ishaq has submitted no documents. Hearing closed."

6. From the use of the term "self-occupation is for commercial purposes. It is not disputed before me that there was no evidence either produced by the Corporation or on record, which would have indicated carrying out any commercial activity in the shape of any invoices cash memos etc.

7. In these circumstances, I find no ground to interfere with the conclusion reached by the Additional District Judge. The writ petition has no merit and is dismissed.