

RAM CHANDRA SRIVASTAVA

A

v.

CHAIRMAN, DDA AND ANR.

NOVEMBER 22, 2006

[S.B. SINHA AND MARKANDEY KATJU, JJ.]

B

Property Laws—Service Charge and rent—Levy of—Challenged—Levy upheld by Courts below—On appeal, held: Validity of the levy should have been considered by Courts below determining the correlation between the charges levied and value of service provided—Grievance of ground rent also should have been considered in detail—Hence, matter remitted to High Court for fresh consideration—Taxation—Fee.

C

Service charge levied by the respondent-Authority and imposition of ground rent by it was challenged in a Writ Petition. Single Judge of the High Court dismissed the same. The Writ Appeal thereagainst was dismissed by Division Bench of High Court holding that the Single Judge had examined the aspect of property tax which had no concern with the services provided by the Authority and that about the ground rent Single Judge had taken into consideration the facts and explanation put forth by the Authority and accounting practice was found to be not unscientific. Hence the present appeal.

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Allowing the appeal and remitting it to High Court for fresh consideration, the Court

HELD: The impugned judgment is a cryptic judgment, and the matter in dispute has not been considered by it properly. In particular, the Division Bench should have carefully considered whether the service charge levied by the DDA was valid, considering the fact that service charge is a fee and not a tax and hence there should be a broad co-relation (though not an exact co-relation) between the total service charges levied by the DDA and the value of the services provided to the citizens. The Division Bench also should have considered in detail the appellant's grievance regarding the ground rent.

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[278-F-H]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5146 of 2006.

From the Final Judgment and Order dated 11-2-2005 of the High Court

H

A of Delhi at New Delhi in L.P.A. No. 1045/2004 in C.W.P. No. 62/2004.

Ram Chandra Srivastava, Appellant-In-Person.

Vishnu B. Saharya (for Saharya & Co.), Sanjay Sen and Praveen Swarup
for the Respondents.

B

The Judgment of the Court was Delivered by

MARKANDEY KATJU, J. Leave granted.

C This appeal has been filed against the impugned judgment and Order dated 11.2.2005 of the Division Bench of Delhi High Court in LPA No. 1045/2004 of CWP No. 62 of 2004.

Heard the appellant in-person and Mr. V.B. Saharya, learned counsel for the DDA.

D

The impugned judgment states as under:

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“ This appeal is preferred against the order made by learned single Judge in W.P.(C) No. 62/2004 on 28.9.2004. Learned single Judge has examined the aspect of property tax which has no concern with the services provided by the Delhi Development Authority. About the ground rent the learned single Judge has taken into consideration the facts and the explanation put forth by the respondents and the accounting practice was found to be not unscientific. In this view of the matter, we would not like to interfere. Hence the appeal is dismissed”.

F

In our opinion the impugned judgment is a cryptic judgment, and with due respect to the Division bench we feel that the matter in dispute has not been considered by it properly. In particular, we are of the opinion that the Division Bench should have carefully considered whether the service charge levied by the DDA was valid, considering the fact that service charge is a fee and not a tax and hence there should be a broad co-relation (though not an exact co-relation) between the total service charges levied by the DDA and the value of the services provided to the citizens.

G

The Division Bench also should have considered in detail the appellant's grievance regarding the ground rent.

H

In that view of the matter, the impugned judgment dated 11.2.2005 is set aside and the matter is remanded to the Division Bench for a fresh decision after hearing the parties, in accordance with law. The Division Bench is requested to give a more detailed judgment dealing with the matter in issue, and dealing with the contentions of the appellant. A

The appeal is allowed. No costs. B

K.K.T.

Appeal allowed.