

PETITIONER:
NOTIFIED AREA COMMITTEE NANGAL TOWNSHIP

Vs.

RESPONDENT:
BHAKRA MANAGEMENT BOARD, CHANDIGARH & ORS.

DATE OF JUDGMENT: 04/08/1999

BENCH:
D.P.Wadhwa, M.B.Shah

JUDGMENT:

D.P. Wadhwa, J.

The question that falls for consideration in these appeals is if the appellant - Notified Area Committee - was legally correct in assessing the annual value of row of quarters in one block as a 'building' for the purpose of levying house tax under the Punjab Municipal Act, 1911 ('Act' for short). This question arises on the interpretation of the word 'building' in the Act.

'Building' is defined under clause (2) of Section 3 of the Act to mean "any shop, house, hut, outhouse, shed or stable, whether used for the purpose of human habilitation or otherwise and whether of masonry, bricks, wood, mud, thatch, metal or any other material whatever and includes a wall and a well".

The question crops up in the following circumstances.

Respondent Board (Bhakra Management Board) is constituted by the Central Government under Section 79 of the Punjab Reorganisation Act, 1966. The Board was so constituted for administration, maintenance and operation of various works as described in the section. These works included Bhakra dam and reservoir and power houses. For the construction, maintenance and operation of the works entrusted to the Board under the Punjab Reorganisation Act, the Board constructed number of residential houses at Nangal township for providing residential accommodation to its officers, staff and workers employed in the power houses. Residential accommodation consisted of different types of bungalows and quarters for the officers and employees of different categories. Each of the bungalows and quarters have separate boundary walls and it is a compact unit with distinct and separate house numbers and allotted to each of the officers and employees of the Board. Different blocks have row of quarters/ bungalows each adjoining to one and another but with a separate identification mark and a complete unit in itself.

Earlier each of the bungalow/quarter has been assessed to the house tax on the basis of annual value worked out separately for these bungalows/quarters as provided in

Section 3 of the Act. However, the Committee raised annual value for purposes of house tax for the year 1977-78 treating the entire block as one building and imposed ad valorem rate of house tax @ 15% of the annual rental value in accordance with Section 63 of the Act. For the subsequent years also the Committee raised bills on the Board on similar basis.

Under Notification dated January 23, 1976 of the Local Government Department of the Punjab Government issued under clause (a) of sub-section (1) of Section 242 of the Act, the Government of Punjab imposed within the limits of the Notified Area Committee, Nangal township a tax payable by the owner of the building at the rate specified in the schedule. This schedule is as under :

S.No. Description of property

Rate of Tax

1.

Building and lands having annual rental value -

(i) not exceeding Rs.840/-

(ii) exceeding Rs.840/- but not exceeding Rs.1,800/-

(iii) exceeding Rs.1,800/-

No Tax

12½ per cent

15 per cent

Now when the Committee raised bill for house tax clubbing quarters or bungalows adjoining to each other as one building, the Board objected to the same contending that each individual quarter/bungalow occupied by its employees has to be treated as separate and that the building having annual rental value not exceeding Rs.840/- would be exempt from house tax. The objections of the Board were rejected by the Committee. The Board thereafter filed an appeal under Section 84(1) of the Act before the Deputy Commissioner, Ropar for setting aside and quashing the demand bill and for the refund of the excess tax recovered from the Board. The Board had made the payment under protest. This appeal was, however, dismissed by the Deputy Commissioner.

Board then filed a writ petition in the Punjab & Haryana High Court challenging the assessment by the Committee. A learned single Judge allowed the writ petition. He was of the view that each separate residential unit would be building and would have to be treated as such for the purpose of levying house-tax and in doing so annual rental value of every separate unit would have to be taken into consideration. Now it was the Committee that felt

aggrieved and filed Letters Patent Appeal in the High Court. This was dismissed by the impugned judgment and the order of the learned single Judge was confirmed. Still aggrieved the appellant filed this appeal after obtaining leave of this Court.

It certainly suits the Committee to consider all quarters or bungalows of one block as one building as that would raise the annual value resulting in higher amount of house tax as per the schedule above mentioned. It was contended by Ms. Jaiswal, learned counsel for the Committee, that there is only one building which has been sub-divided though let out to various persons. She said even though there were different occupiers, ultimate source of title-holder was the Board and the Committee was justified in imposing house tax collectively on the building. She said it was for the Committee to decide if block of quarters constituted one building or not. Lastly, it was submitted that the Board itself was not the owner of the building as ownership vested in the State of Punjab and the Board was merely an occupier of the building which had been given to it for occupation of its staff and their being one occupier, whole block could be assessed as one building treating it as one unit.

We do not think that the Committee is right in its approach. If we may refer to the definition of the 'building', it means any house used for the purpose of human habilitation. The term 'house' in the present case would mean a dwelling house intended for human habilitation. It is not disputed that each quarter or bungalow is allotted to a separate employee who lives therein with his family. Simply because some quarters or some bungalows have common wall separating each other would not mean that that quarter or bungalow ceases to be a house. A house is a place of dwelling or habilitation. It is difficult to accept the proposition that quarters in one row having common wall though each separating the other would mean one building for the purpose of arriving at the annual value. We do not think that any argument is needed for us to hold that each such quarter or bungalow for the residence of employees of the Board would fall within the definition of 'building'. Stand of the Committee appears to us is rather incongruous. Just to get more revenue, the Committee could not change its stand and put interpretation on the term 'building' which is incomprehensible. The Committee was not justified in clubbing all the quarters/bungalows in one block together and term that as 'building'.

These appeals are accordingly dismissed with costs. Judgment of the High Court is affirmed. When leave was granted by this Court, there was stay of the operation of the impugned judgment of the High Court. With dismissal of these appeals, stay stands vacated and if in the meanwhile any excess amount have been paid by the Board to the Committee, it shall be refunded by the Committee to the Board within two months.