

CASE NO.:
Appeal (civil) 5146 of 2006

PETITIONER:
Ram Chandra Srivastava

RESPONDENT:
Chairman, DDA and another

DATE OF JUDGMENT: 22/11/2006

BENCH:
S. B. Sinha & Markandey Katju

JUDGMENT:
J U D G M E N T
(Arising out of Special Leave Petition (Civil) No. 9685 of 2005)

MARKANDEY KATJU, J.

Leave granted.

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.

The impugned judgment states as under:

" 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".

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.

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

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.

The appeal is allowed. No costs.

JUDIS