

CHIEF COMMISSIONER, UNION TERRITORY, CHANDIGARH

v.

JANGI LAL JAIN AND ANR. ETC.

OCTOBER 8, 1996

[K. RAMASWAMY AND G.B. PATTANAİK, JJ.]

*Municipality :*

*Capital of Punjab (Development and Regulation Act, 1952 (as amended by Punjab Act 37 of 1957); Schedule II : Property tax—Levy of—Power of Chief Administrator, Union Territory of Chandigarh Administration—Held, in view of subsequent legislations, i.e. amendment of ss. 61, 62 and 68 of Punjab Municipal Act. 1911 and enactment of the Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994 these are not proper cases to go into the question.*

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 3537-58 and 3540 of 1979.

From the Judgment and Order dated 19.2.79 of the Punjab & Haryana High Court in C.W.P. Nos. 3958/77, 7218/76, 2538, 3880/77, 319, 1046, 1577 and 4733 of 1978.

K. Madhava Reddy, Mrs. Kanwaljit Kochar, Mrs. Rani Chhabra and S.K. Jain for the Appellant.

D.V. Sehgal, Ravindra Bana (NP) and G.K. Bansal for the Respondents.

The following Order of the Court was delivered :

These appeals by special leave arise from the judgment dated 19.2.79 of the Division Bench of the Punjab and Haryana High Court holding that the delegation of power to levy property tax in favour of the Chief Administrator of Union Territory of Chandigarh Administration was in excess of legislative power. The operation of Schedule II of the Capital of Punjab (Development and Regulation) Act, 1952, (27 of 1952), as amended by Punjab Act 37 of 1957, offends the provisions of the Constitution. On the facts of this case, we think that it is not necessary to decide the question

A on account of diverse reasons. There is some force in the contention of Shri Madhava Reddy, learned senior counsel for the appellant, that the view taken by the High Court is not correct in law. But, prior to 1994 Amendment under Section 62 read with Section 61 and 68 of the Punjab Municipal Act, 1911, the assessment of the property tax shall be annual basis and revisable every year. Now, it is valid for five years and amount for quinquennial. In this case, since it was struck down, revision was not effected. Moreover, even the limitation for recovery of the amount due also is now barred by limitation except for six months. That apart, the Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994 (45 of 1994) which has come into force with effect from may 24, 1994, displaces the effect of Act 27 of 1952 as amended by Act 37 of 1957. The Municipal Corporation, as enjoined under Section 4 of 1994 Act has yet to be constituted. After coming into force of the 1994 Act, the Chief Administrator has been denuded of the power to levy property tax. In view of these subsequent changes, it is unnecessary, rather academic, to decide the question decided by the High Court in the impugned order. Moreover, the connected appeals C.A. Nos. 3536, 3539, 3541-43/79 filed against the main judgment were dismissed by this Court for non-prosecution on May 10, 1995 and became final. Under these circumstances, we think that these are not proper cases to go into the question.

E The appeals are accordingly dismissed. No. costs.

R.P.

Appeals dismissed.