

NOTIFIED AREA COMMITTEE NANGAL TOWNSHIP
v.
BHAKRA MANAGEMENT BOARD, CHANDIGARH AND ORS.

A

AUGUST 4, 1999

[D.P. WADHWA AND M.B. SHAH, JJ.]

B

Municipalities:

Punjab Municipal Act, 1911—Section 3(2)—Property Tax—‘Building’—Annual rental value of a row of bungalows adjoining each other in one block taken as a ‘building’ for levying house tax—In appeal—Held—‘Building’ includes any house meant for human habitation—Each bungalow is a ‘building’ and is assessable to tax separately.

C

The respondent-Board constructed a number of residential houses for accommodation of its employees. Different blocks have row of houses adjoining each other, but each bungalow has separate boundary walls with distinct house numbers and are allotted to different employees.

D

Earlier, each house was assessed by the appellant-Committee to house tax on the basis of annual value worked out separately for each house. However, from 1977-78, the appellant-Committee treated the entire block as one ‘building’ and imposed *ad valorem* rate of house tax at 15% of the annual rental value of the ‘building’, under the Punjab Government Notification dated 23.1.1976.

E

The respondent-Board contended before the Committee that it was exempt from house tax since the annual rental value of each house/unit was below the taxable amount specified in the Notification. However, the Committee rejected the objections, and the appeal filed before the Deputy Commissioner was dismissed.

F

Single Judge of the High Court allowed the writ petition of the Board and the order was confirmed by the Division Bench of High Court in appeal.

G

In this appeal, the appellant-Committee contended that there was only one building which was sub-divided and since there was one titleholder, the

H

A house tax was correctly levied.

Dismissing the appeals, this Court

HELD : 1.1. The appellant-Committee was not justified in clubbing all bungalows in a row in one block together and terming that as a 'building' for the purposes of fixing the annual rental value for determination of house tax. Each bungalow for the residence of an employee would fall within the definition of a 'building' and be valued separately for the purposes of levying house tax. [21-B-C-D]

1.2. 'Building' means any house intended for human habilitation. Simply because some bungalows have a common boundary wall, though each separating the other and, each is allotted to separate employees, it would not mean that a bungalow ceases to be a house. [21-A-B]

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 3830-34 of 1990 Etc.

D From the Judgment and Order dated 14.12.89 of the Punjab & Haryana High Court in C.W. Nos. 5528-30, 5487-88 of 1989.

Ms. Kamini Jaiswal for the Appellant.

E Dhruv Mehta, S.K. Mehta, Fazlin Anam and Ms. Shobha for the Respondents.

The Judgment of the Court was delivered by

F 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.

G '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".

H 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	No Tax
	(ii) exceeding Rs. 840 but not exceeding Rs. 1,800	12+ per cent

A (iii) exceeding Rs. 1,800 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

B 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
C 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 a building and would have to be treated as such for the purpose of levying
D 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
E 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
F 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
G 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.

H 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.

S.K.

Appeals dismissed.