

SUPREME COURT OF INDIA

Municipal Corporation of Delhi

Vs.

Jyotsna Jain (Smt)

(S Bharucha, M Shah and R Pal JJ.)

19.07.2000

ORDER

1. The order under appeal was passed by a Division Bench of the High Court at Delhi. Thereby, a writ petition filed by the present appellant assailing the correctness of an order passed by the Additional District Judge Delhi was dismissed. The Additional District Judge had acted as the appellate authority under the Delhi Municipal Corporation Act, 1957 and had set aside the fixation of the rateable value by the Deputy Assessor and Collector of the property owned by the present respondent. The High Court took the view that what was involved was a question of fact and the appellate authority had the right to differ from the reasoning of the Assessor and Collector; it being a pure question of fact, no question of jurisdictional infirmity was involved.

2. We find that the order, on the Assessor and Collector did indeed go into the facts and, upon such facts, came to the conclusion that the rental of the first letting did not represent the fair rental of the property. The order of the appellate authority does not deal with the facts at all. It contains only a statement that there was no evidence on the record that there was any collusion between the parties regarding the rent. This would seem to ignore the worth of material upon which the assessing authority relied. It is, in our view, therefore, appropriate to set aside the order of the High Court summarily dismissing the writ petition and to restore the writ petition to the file of the High Court to be heard and disposed of on merits,

3. We make it clear that we do not express any opinion on the merits of the controversy.

4. The civil appeal is allowed. The order under appeal is set aside. Civil Writ Petition No. 1613 of 1986 is restored to the file of the High Court at Delhi to be heard and disposed of on merits. This shall be done expeditiously.

5. No order as to costs.