

Court No. - 3

Case :- WRIT TAX No. - 648 of 2016

Petitioner :- Ratan Bhai Jain

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Aklank Kumar Jain

Counsel for Respondent :- C.S.C.,Jadu Nandan Yadav,Satish Mandhyan

Hon'ble Pankaj Mithal,J.

Hon'ble Umesh Chandra Tripathi,J.

Heard Sri Aklank Kumar Jain, learned counsel for the petitioner, learned standing counsel appearing for respondent nos. 1, 2 and 3 and Sri J.N. Yadav, learned counsel appearing for respondent nos. 4 and 5.

The petitioner is the owner of Property Nos. 226B and 226C, Patel Marg, Shikohabad, District- Firozabad, which is within the municipal area of Nagar Palika, Shikohabad.

The petitioner is aggrieved by the letter/order dated 08.04.2015 issued to him by the Executive Officer, Nagar Palika Parishad, Shikohabad, contending that he is liable to pay property tax on the above property at the rate of twelve times of the annual rental value and thus, for the Financial Year 2012-13 and 2013-14, he is liable to pay a sum of Rs. 2,02,272/- failing which, interest at the rate of 18% p.a. would be charged. The aforesaid letter/order also states that in case the petitioner is not satisfied, he may contact the E.O. on any working day.

The argument of Sri Aklank Kumar Jain, learned counsel for the petitioner is that the respondent nos. 4 and 5 cannot impose any property tax, as till date no rules in that regard have been framed and the manner of determination of the property tax had not been specified.

Sri J.N. Yadav, on the other hand, had placed reliance upon the Government Orders dated 22.02.2010 and 18.03.2011, which have been followed by the Nagar Palika Parishad, Shikohabad in assessing the above tax.

In relation to a similar controversy in respect of the Nagar Palika Parishad, Shikohabad itself, the matter had earlier come up before a Division Bench of this Court in Writ Tax. No. 544 of 2016 (Ramesh Chandra Agrawal and another Vs. State of U.P. And others) and four other connected writ petitions. All these writ petitions were decided by a common judgment and

order dated 14.09.2016. The Court considered the aforesaid Government Orders and held that as admittedly, rules have not been framed by the Nagar Palika Parishad for the computation and determination of property tax, there is no justification in determining the monthly rental rates or to assess any building or land for the purposes of levy of house tax or water tax. Thus, the action of the Nagar Palika Parishad to levy property tax was set at naught and exemplary costs were imposed.

In view of the aforesaid judgment, the controversy involved in this petition is no longer *res integra* and stands fully covered by it. The aforesaid judgment and order, though may be under appeal, but it continues to exist in the text book as it has not been wiped-off. There is no order of any higher court so as to stay its operation.

Accordingly, we **dispose of** this writ petition in terms of the judgment and order dated 14.09.2016 passed by this Court in Writ Tax No. 544 of 2016 (Ramesh Chandra Agrawal and another Vs. State of U.P. And others) and four other connected writ petitions. The letter/order dated 08.04.2015 of the E.O., Nagar Palika Parishad, Shikohabad stands quashed.

The writ petition is **allowed** accordingly, but with no order as to costs.

Order Date :- 28.7.2017

I. Batabyal