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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 12423/2025 & CM APPL. 50651/2025, CM APPL. 50652/2025

RAKESH GUPTA & ANR. .....Petitioners

Through: Mr. Dayan Krishnan, Sr. Advocate with Mr. Saurabh Seth, Ms. Sumeer Seth, Ms. Neelampreet Kaur, Mr. Abhiroop Rathore, Mr. Shreedhar and Ms. Ananya Sharma, Advocates
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versus

NEW DELHI MUNICIPAL COUNCIL .....Respondent

Through: Mr. Ravi Krishan Chandana, Ms. Vidushi Chandana and Mr. Udbhav K. Garg, Advocates
Mob: 9711752002

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

O R D E R

% **19.08.2025**

CM APPL. 50652/2025 (for Exemption)

1. Exemption allowed, subject to just exceptions.

2. Application is disposed of.

W.P.(C) 12423/2025 & CM APPL. 50651/2025

3. The present writ petition has been filed challenging the determination of the Annual Rateable Value ("ARV") by the New Delhi Municipal

Council ("NDMC") in respect of the property bearing No. *A-2, A-2/1, Portion of 28 & 43, A Block, Connaught Place, New Delhi 110001*.

4. Learned Senior Counsel appearing for the petitioners submits that pursuant to the aforesaid determination, the respondent seeks to enforce recovery of property tax in respect of the aforesaid property, without following due procedure under the New Delhi Municipal Council Act, 1994 ("NDMC Act") and in violation of Principles of Natural Justice.

5. Thus, it is submitted that the petitioners seek quashing of the Assessment Notices dated 18th March, 2017 and 29th March, 2023 and Assessment Orders dated 01st January, 2024 and 16th May, 2025, and all consequent actions taken in respect thereof.

6. Learned Senior Counsel appearing for the petitioner submits that an Assessment Notice dated 18th March, 2017 was initially issued to the petitioners. However, without finalizing the said Notice, another Assessment Notice dated 29th March, 2023, was issued after six years. He submits that in the meanwhile bills were raised by the NDMC as per the old rates, which were duly paid by the petitioners.

7. Learned Senior Counsel appearing for the petitioners draws the attention of this Court to the notice dated 29th March, 2023, to submit that the same pertains to the proposed effective rate from 1st April, 2016 and 1st April, 2022.

8. He draws the attention of this Court to proviso of Section 72 of the NDMC Act, to submit that the NDMC had no authority to issue the aforesaid Notice.

9. He further submits that in terms of Section 72(2) of the NDMC Act, the NDMC was required to provide a due hearing to the petitioners.

10. He submits that a Hearing Notice dated 26th December, 2023, was issued by the respondent-NDMC for hearing to be held on 29th December, 2023. However, the said Notice was not received by the petitioners before the date of hearing, as the same was sent on the old address of the petitioners.

11. Thus, by way of the letter dated 02nd January, 2024, petitioners brought this fact to the notice of the respondent and requested for a fresh date of hearing.

12. Subsequently, the respondent issued a letter dated 3rd January, 2024 for fixing a date of hearing on 22nd January, 2024. However, it is submitted before this Court, that no hearing took place on 22nd January, 2024.

13. Learned Senior Counsel appearing for the petitioners submits that the letter dated 03rd January, 2024 was issued to the petitioners for hearing on 22nd January, 2024, however, prior to the said issuance of the letter dated 03rd January, 2024, the respondent-NDMC had passed the Assessment Order dated 01st January, 2024 under Section 72 of the NDMC Act.

14. Thus, it is submitted that both the Notices issued by the NDMC stand vitiated by delay. He further submits that no Assessment Order could have been issued by the respondent, without granting a hearing to the petitioners in terms of the Principles of Natural Justice.

15. He, thus, submits that the respondent has made a mockery of the whole procedure by issuing the letter dated 03rd January, 2024, fixing a date for hearing on 22nd January, 2024, when the respondent-NDMC had already passed the Assessment Order on 01st January, 2024.

16. Learned Senior Counsel appearing for the petitioners also relies upon the judgment in the case of *"Mr. Ved Marwah Versus New Delhi Municipal*

Council ("NDMC") and Ors", 2018 SCC OnLine Del 8096, to submit that no assessment could have been made on the basis of a Notice for a period commencing from three years prior to the date on which the said Notice was issued.

17. He, thus, submits that the assessment made by the respondent-NDMC is barred by limitation and is in violation of the law laid down by the Division Bench of this Court in the aforesaid case.

18. Learned Senior Counsel appearing for the petitioners also submits that the impugned Assessment Order is based on NDMC (Determination of Annual Rent) Bye-Laws, 2009, which has already been struck down by this Court *vide* judgment dated 10th August, 2017 passed in *W.P.(C) 3348/2010* and other connected matters.

19. It is submitted that the aforesaid judgment passed by the Division Bench of this Court has also been upheld by the Supreme Court in the judgment dated 22nd January, 2019, titled as "*New Delhi Municipal Council and Ors. Versus Association of Concerned Citizens of New Delhi and Ors.*" *(2019) 15 SCC 303*. Thus, it is the case of the petitioners that the Assessment Order passed by the NDMC, is unlawful.

20. Issue notice. Notice is accepted by learned counsel appearing for the respondent.

21. Learned counsel appearing for the respondent submits that the present writ petition would not be maintainable, as the petitioners have an efficacious remedy to file an appeal under Section 115 of the NDMC Act.

22. He further submits that the objections, as raised by the petitioner, were duly considered by the NDMC, and were rejected *vide* letter dated 16th May, 2025. He, thus, submits that the only remedy available with the

petitioners, is to file an appeal in terms of the statutory framework.

23. He further submits that, as on date, the petitioners are liable to pay an approximate amount of Rupees Seven Crores.

24. Responding to the aforesaid, learned Senior Counsel appearing for the petitioners submits that when the very notices issued by the respondent-NDMC are *non-est*, any assessment made on the basis of such notices, cannot be considered to be an assessment in the eyes of law.

25. He further submits, on instructions, that as per the calculation made by the petitioners, the petitioners are liable for the payment of only an amount of approximately 6.5 lakhs, for the period of 2023-2025.

26. The matter requires consideration.

27. Let reply be filed by the respondent, within a period of four weeks, from today.

28. Rejoinder thereto, if any, be filed within a period of two weeks, thereafter.

29. Considering the submissions made before this Court, it is directed that subject to the petitioners depositing an amount of Rupees Fifteen Lacs with the respondent-NDMC, within a period of four weeks, no coercive action shall be taken against the petitioners.

30. It is clarified that directions have been given to the petitioners to deposit the aforesaid amount without prejudice to the rights and contentions of both the parties.

31. Re-notify on 21st November, 2025.

MINI PUSHKARNA, J

AUGUST 19, 2025

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