

Digitally
signed by
HUSENBASHA
RAHAMAN
NADAF
Date:
2026.09.30
20:10:43
+0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2095 OF 1999

MUNICIPAL CORPORATION OF THE CITY)
OF PUNE)
Having its Head Office at Shivajinagar,)
Pune 411 005.) ...Petitioner.

Versus

M/s. Pravinkumar Kantilal Agarwal,)
a Proprietary firm having its)
office at 242, Market Yard, Pune,)
Nanuram Agarwal, 37, through its)
proprietor Mr. Kantilal Nanuram Agarwal,)
age 38 yrs., Occupation : Business,)
Residing at 31, Bhavani Peth, Pune-411002.) ... Respondent.

Mr. Rhishikesh M. Pethe, Advocate for the Petitioner.
Ms. Madhavi Tavnandi, Advocate for the Respondent.

CORAM : M.M. SATHAYE, J.
RESERVED ON : 28th JULY, 2026
PRONOUNCED ON : 30th SEPTEMBER, 2026

JUDGMENT :

1. By invoking Article 226 of the Constitution of India, the Petitioner/Municipal Corporation is challenging the Judgment and Order dated 03.08.1998 passed by the 4th Additional District Judge, Pune in Civil Appeal No. 401 of 1994. By the said impugned Order, the appeal filed by the Petitioner/Municipal Corporation is dismissed, confirming the Judgment and Order dated 29.01.1994 passed by

Judge of Small Causes Court, Pune in Municipal Appeal No. 61 of 1992. Order of Assessing authority dated 24.03.1992 passed in Case No. A-95/91-92 was set aside, thereby fixing the Rateable value ('RV' for short) of subject matter structure at Rs. 2600/- instead of Rs. 17,550/- w.e.f. 01.04.1991 and the Municipal Corporation was directed to correct the assessment books and return the excess taxes, if any.

2. Brief background of the matter is as under :

2.1. The Respondent is the lessee of Plot No. 242, Market Yard, Gultekdi, Pune ('the said plot' for short), which admeasures 3000 sq. ft. in Market Yard area, which was allotted to him by Agricultural Produce Market Committee ('APMC' for short) in the year 1990 on lease for 99 years.

2.2. As per the permission and plan sanctioned by the Petitioner/Municipal Corporation, the Respondent carried out RCC construction of typical godown admeasuring 1300 sq. ft. and an attic of 200 sq. ft. In 1991, the Completion certificate was issued with regards to construction on said plot.

2.3. The Petitioner/Municipal Corporation sent Special Notice No. 1867 dated 23.12.1991 proposing to enhance RV of the subject matter structure from Rs. 350/- to Rs. 17,550/- w.e.f. 01.12.1991. Respondent was heard. The Assistant Assessor and Collector of Taxes, by order dated 24.03.1992 fixed RV at Rs. 17,550/- w.e.f. 01.12.1991 after considering cost of construction of Rs. 150/- per sq. ft.

2.4. The Respondent challenged the said assessment order by filing Municipal Appeal No. 61 of 1992 under Section 406 of Bombay Provincial Municipal Corporations Act, 1949 ('BPMC Act' for short), in the Small Causes Court, Pune.

2.5. Learned Judge of the Small Causes Court, who heard and tried the said appeal, was pleased to allow it, thereby setting aside the assessment and instead fixing RV at Rs.2,600/- w.e.f. 01.04.1991. The Petitioner/Municipal Corporation was directed to correct the assessment books upto date and was further directed to refund excess tax collected, if any.

2.6. The Petitioner/Municipal Corporation filed Civil Appeal No. 401 of 1994 in the District Court at Pune under Section 411 of BPMC Act.

2.7. By the impugned Judgment and Order dated 03.08.1998, the said appeal is dismissed. In these circumstances, the Petitioner/Municipal Corporation filed this writ petition.

SUBMISSIONS

3. Learned counsel for the Petitioner submitted that the burden of proving that assessment is excess, is upon the assessee i.e. the Respondent. He submitted that the said burden is not discharged as there is nothing to indicate that any evidence was led before the Assessing Officer. He submitted that the Courts below were not justified in placing the burden about assessment upon the Petitioner/Municipal Corporation, contrary to the established law. He

further submitted that the method of comparing similar nearby structure, is not permitted in absence of reasons. He submitted that the Courts below have perversely held that there has been discrimination. He relied upon the following judgments in support of his case :

- i. Municipal Corporation of the City of Pune Vs. M/s. E. L. F. Filament Industries Pvt. Ltd. (Bombay High Court, Writ Petition No. 6151 of 1999, Judgment dated 28.02.2025).
- ii. The Municipal Corporation of the City of Pune and Ors. Vs. M/s. M. M. Nahar (Bombay High Court, Writ Petition No. 2301 of 2009, Judgment dated 17.02.2023).
- iii. Pune Municipal Corporation Vs. Dhanraj Tarachand Sankala and Sons 2013(2) Mah.L.J. 407.
- iv. Municipal Corporation of the City of Pune Vs. Satishkumar Satyanaran Agarwal 2025 SCC OnLine Bom 4798.
- v. Pune Municipal Corporation & Ors. Vs. Smt. Vimal Govind Joshi (Bombay High Court, Civil Revision Application No. 25 of 2009, Order dated 29.04.2015).
- vi. Pune Municipal Corporation Vs. The Indian Seamless Metal Tube Limited (Bombay High Court, Writ Petition No. 5920 of 2006, dated 12.02.2026).

He finally submitted that, in fact judgment of **M. M. Nahar (Supra)** and **Satishkumar (Supra)** are rendered in respect of the same Market Yard area at Gultekdi where present subject matter structure and plot is situated.

4. On the other hand, learned counsel for the Respondent/assessee, submitted that the Courts below have concurrently held that assessment should have been similar to nearby structure. She submitted that the subject matter godown of the Respondent is situated in the rear side lane of a neighbouring godown, owner of which is examined as Witness No. 2 and therefore

there is no reason to discriminate. She finally submitted that the method of construction-cost adopted by the Assessing Officer should not have been adopted and at the relevant time, in 1990-91, construction cost was not as high as Rs. 150/- per sq. ft. as considered by the Assessing officer. She relied upon following Judgments in support of her case :

- i. State of Madhya Pradesh Vs. Bhopal Sugar Industries Ltd. AIR 1964 SC 1179.
- ii. Municipal Corporation of City of Pune Vs. Haridas Govinddas Gujrati 2002(4) Bom.C.R. 260.
- iii. Mananbhai N. Sheth Vs. Municipal Corporation of Ahmedabad 2001 SCC Online Guj 152.

REASONS AND CONCLUSION

5. I have considered the rival submissions and perused the record.

6. At the outset, it is necessary to note that judgments in **M. M. Nahar (Supra)** and **Satishkumar (Supra)** are indeed in respect of the same same market yard area in Pune involving same Pune Municipal Corporation.

7. Perusal of the assessment order dated 24.03.1992 indicates that assessee was present and heard. Nothing is shown to the Court to suggest that Respondent/assessee has given either valuer's report for construction cost or other material before the Assessing Authority in support of his case for reduction in proposed assessment.

8. Assessment order is based on an order in Case No. A/038/90-91, which proceeds on construction cost at the relevant time. The assessment order records that completion certificate was granted in

July 1990 and therefore, cost of construction for the year 1990-91 was considered @ Rs.150/- per sq. ft. (Rs. 2,35,000/- for godown admeasuring 1500 sq. ft.) and based on such figure, RV value is fixed at Rs. 17,750/-.

9. In **Vimal Govind Joshi (supra)**, this Court has clearly held that it is for the party which disputes the RV (Respondent/assessee in the present case) to lead evidence and prove as to what should be the correct RV and the burden is upon the Respondent/assessee. This view has been subsequently followed by this Court in judgment of **The Indian Seamless Metal Tube Limited (supra)**, **The Municipal Corporation of the City of Pune Vs. M/s. Hi-Q Electronics (Bombay High Court, Writ Petition No. 2422 of 2004, Judgment dated 09.07.2026)**. In the present case, nothing is pointed out to the Court from record that such burden was discharged when the matter was heard before the Assessing Officer.

10. In **Dhanraj Tarachand Sankala (Supra)**, this Court held that merely because two properties are situated adjacent to each other, their assessment need not be the same. In **M. M. Nahar (Supra)** and **M/s. Hi-Q Electronics (Supra)**, this view has been followed.

11. Keeping in mind the law as discussed above, it is clear that merely because of geographical proximity or because two structures are situated adjacent to each other, their assessments cannot be held comparable directly, unless the material in that respect is discussed by the Court and reasons are given. In the case at hand, it is seen that such comparison about quality of structure, amenities or other factors is not discussed by the learned Judge of the Small Causes Court and

the learned District Judge. Parity seems to have been given without reasons or discussing basis for the same. Merely because of geographical proximity or being adjacent, rates applied to Witness No. 2's property are applied to present case by the Courts below. Also, the learned District Judge has erred in putting burden of proof upon the Petitioner in as much as, it is held that Municipal Corporation has not adduced any evidence to show as to on what basis the cost of construction is determined.

12. Before parting, it is necessary to consider judgments relied upon by the Respondent. The judgment of **Bhopal Sugar Industries Ltd. (Supra)** is relied upon to contend that the Respondent must be treated equally with the other similarly situated persons. The Hon'ble Supreme Court in the said Judgment has clearly held that to make out the case of denial of equal protection, a plea of differential treatment by itself is not sufficient, but applicant pleading denial of equal protection must make out that he has been treated differently without reasonable basis and such differential treatment is unjustifiable. Considering the settled position in respect of provisions of law involved, as explained above, parity is required to be based on reasons about two structures being similarly situated. Therefore, in the peculiar facts of this case, this is not a case of differential treatment without reasonable basis. In that view of the matter, this Judgment will not advance the case of the Respondent.

13. In **Haridas Govinddas Gujrati (Supra)** it is seen that in the facts of that case, there was discrimination in fixed rate at higher than adjacent nearby bungalows in which better material or construction

was used. Therefore, while considering the parity, the learned District Judge had considered reasons for giving such parity. In the present case, parity has been given without any reason about relevant factors. Therefore, the facts of the present case are clearly distinguishable. Hence, the said Judgment will also not advance the case of the Respondent.

14. Lastly, the facts involved in **Mananbhai N. Sheth (Supra)** are completely different and the issue discussed and decided by learned Division Bench of Gujarat High Court in the said case is not at all relevant for the issue involved in the present matter and therefore, the said Judgment will also not help the Respondent.

15. In the aforesaid facts and circumstances, the Courts below have placed the burden perversely upon the Petitioner and has given parity without reasons. Therefore, the impugned order suffers from perversity and cannot be sustained. Interference is needed. However, considering that long period of about 35 years has lapsed in between, interference will have to be limited to its effect on concerned year i.e. 1991-92.

16. Hence, the petition succeeds partly. Impugned Judgment and Order dated 03.08.1998 passed in Civil Appeal No. 401 of 1994 is quashed and set aside. The said appeal is allowed, thereby setting aside the Judgment and Order dated 29.01.1994 passed in Municipal Appeal No. 61 of 1992. However, this order shall apply for the year 1991-92 only.

17. **Rule is made absolute in above terms. No order as to costs.**

18. All concerned to act on duly authenticated or digitally signed QR verifiable copy of this order.

(M.M. SATHAYE, J.)