

CIVIL WRIT

Before Khosla and Harnam Singh, JJ.

R. S. BALMOKAND KOHLI AND 17 OTHERS,—*Petitioners,*

versus

STATE OF PUNJAB,—*Respondent.*

1952

June 16th

Civil Writ No. 190 of 1951

Punjab Urban Immovable Property Tax Act, XVII of 1940—Sections 1 (2) 9 and 18 (1)—Whether notification necessary applying the Act to an area included in a rating area subsequently under section 1 (2)—Whether preparation of a separate valuation list necessary on the inclusion of

a new territory in a rating area in view of section 9— R. S. Bal-
Whether notice necessary to be given in the case of an mokand Kohli
amendment in the current valuation list under section 18 (1). and 17 others

v.

State of
Punjab

Held, that in view of the provisions of section 3 and 2 (e) of the Punjab Urban Immovable Property Tax Act, 1940, no notification is necessary under section 1 (2) of the Act, applying the Act to an area which is subsequently included in a "rating area" shown in the Schedule to the Act.

Held also, that on the inclusion of a new territory in a rating area the preparation of a separate valuation list is not required by law for the case comes within section 9 of the Act. Under that section the assessing authority has power to make amendments in the valuation list already prepared so as to bring it into accord with the circumstances arising out of the inclusion of new territory in the rating area. Clauses (a), (b) and (c) of section 9 of the Act are not restrictive of the power given to the assessing authority by what precedes immediately clause (a) of section 9. Cases mentioned in these clauses are merely illustrative and amendments under section 9 can be made in the current valuation list so as to bring it into accord with the new circumstances.

Held further, that notice under section 18 (1) of the Act as amended by East Punjab Act No. XXXIII of 1948, is not necessary to be given to the owner, occupier or lessee of buildings or lands in the rating area in the case of an amendment in the current valuation list.

Petition under Article 226 of the Constitution of India, praying as under :—

- (A) that this Hon'ble Court may be pleased to hold that imposition and demand upon the petitioners of the Punjab Urban Immovable Property Tax is illegal, unconstitutional and *ultra vires*.
- (B) that this Hon'ble Court may be pleased to issue orders, directions in the nature of writ of prohibition or *mandamus* as may be found expedient, restraining the respondent from levying and realising the Punjab Urban Immovable Property Tax ;
- (C) that pending the final disposal of this petition an *ad-interim* prohibitory order may be issued against the respondent restraining him from realising the tax ; and

R. S. Bal-
mokand Kohli
and 17 others
v.
State of
Punjab

(D) that this Hon'ble Court may further be pleased to grant such other relief or reliefs either in addition or in the alternative which under the circumstances of the case may be considered proper.

TEK CHAND, for Petitioners.

S. M. SIRRI, Advocate-General, for Respondent.

Harnam Singh J. HARNAM SINGH, J. *Shri Bal Mokand Kohli and seventeen other owners of buildings and lands situate in Sanjauli apply under Article 226 of the Constitution of India for the issuance of a writ of mandamus restraining the State of Punjab from proceeding under section 3 of the Punjab Urban Immovable Property Tax Act, 1940, hereinafter referred to as the Act, with regard to buildings and lands situate in Sanjauli.*

Briefly summarised the facts of the case are these. The built-up area of Sanjauli measuring 201 acres was transferred from Himachal Pradesh to the State of Punjab with effect from the 25th of January 1950, under Article 3 of the Provinces and States (Absorption of Enclaves) Order, 1950, with the result that from that date all laws in force in the State of Punjab came to be in force in the built-up area of Sanjauli. By Notification No. 5327-L.G (A) 50 11-8803, dated the 24th of January 1950, the built-up area of Sanjauli was included within the limits of the Simla Municipality for purposes of administration with effect from the 25th January 1950. In the rating area of Simla the Act was in force from 1941 and under the Act the last valuation list for that rating area was prepared in 1949-50. On the inclusion of Sanjauli in the rating area of Simla the applicants were given notice under the proviso to section 9 of the Act to file objections to the proposed amendments in the valuation list of Simla so as to bring that list into accord with the circumstances that arose on the inclusion of Sanjauli within the area administered by the Simla Municipality. Of the applicants *Shri Bal Mokand Kohli, Shri Jagat Ram, Shri Amar Chand Butail,*

Messrs Hakim Mal-Tani Mal, Messrs Indar Mal-Gurbakhsh Rai, Messrs Mauja Mal-Sant Ram, Messrs Jodha Mal-Sita Ram, *Shri* Hukam Chand, Messrs Moja Mal-Mehar Chand and Messrs Milkhi Ram-Prithi Chand filed objections under the proviso to section 9 of the Act and their assessments were modified according to the facts of each case.

R. S. Bal-
mokand Kohli
and 17 others
v.
State of
Punjab
Harnam Singh
J.

No proceedings in appeal or revision were taken under section 10 of the Act by the applicants. In the application under Article 226 of the Constitution objection is taken to the levy of tax on buildings and lands situated in Sanjauli on the following grounds :—

- (1) that inasmuch as notification under section 1 (2) of the Act has not been made extending the Act to Sanjauli, tax could not be levied under section 3 of the Act ;
- (2) that, in any case, no valuation list has been prepared for Sanjauli in accordance with the procedure prescribed by sections 7 and 8 of the Act ;
- (3) that the assessing authority has not given notice to the applicants under section 18 (1) of the Act ; and
- (4) that the assessing authority has introduced the valuation list in Sanjauli with effect from the 26th January 1950, whereas section 7 (2) of the Act provides that every valuation list shall come in force on the 1st day of April or the 1st day of October, as the case may be, next following the date on which the valuation list is finally approved by the assessing authority.

In my judgment there is no force in the first objection. Section 3 of the Act provides *inter alia* that there shall be charged, levied and paid an annual tax

R. S. Balmokand Kohli and 17 others

v.

State of Punjab

Harnam Singh J.

on buildings and lands situated in the rating areas shown in the schedule to the Act. Section 2 (e) of the Act as amended by East Punjab Act No. XXXIII of 1948 defines "rating area" to mean any area administered *for the time being* by a local authority which is included or which may hereafter be included in the schedule to the Act. Simla is shown to be a "rating area" in the schedule to the Act. By notification, dated the 24th of January 1950, the built-up area of Sanjauli was included within the area administered by the Simla Municipality for purposes of administration with effect from the 25th January 1950. That being so, the Act came into force in Sanjauli when Sanjauli was included within the area administered by the Simla Municipality. In this view of the matter the promulgation of notification under section 1 (2) of the Act was not necessary.

Section 7 (1) of the Act provides *inter alia* that a valuation list shall be made by the prescribed authority in accordance with the rules framed under the Act for every rating area so as to come into force either on the first day of April or on the first of October, and thereafter new valuation list shall be prepared from time to time so that the interval between the dates on which one valuation list and the next succeeding valuation list, respectively, come into force shall be a period of five years. For the area administered by the Simla Municipality the last valuation list was prepared in 1949-50 and it came into force in that rating area with effect from the 1st of April 1950. Sanjauli being included in that rating area the preparation of a separate valuation list was not required by law for the case came within section 9 of the Act. The relevant portion of section 9 reads :—

"9. Subject to such rules, if any, as the State Government may think fit to make in this behalf, the assessing authority may at any time make such amendments in a valuation list as appear to it necessary in order to bring the list into accord with existing circumstances, * *."

Clearly, the assessing authority has power to make amendments in the valuation list prepared for the area administered by the Municipality of Simla, so as to bring that list into accord with the circumstances arising out of the inclusion of Sanjauli in that rating area.

R. S. Bal-
mokand Kohli
and 17 others

v.
State of
Punjab

Harnam Singh
J.

Mr Tek Chand urges that the amendments do not come within section 9 (a), (b) and (c) of the Act. In my opinion cases mentioned in section 9 (a), (b) and (c) are merely illustrative for the power to make amendments in order to bring the list in accord with the existing circumstances is given by the provisions of law contained in the opening part of section 9 of the Act. Clearly, clauses (a), (b) and (c) of section 9 of the Act are not restrictive of the power given to the assessing authority by what precedes immediately clause (a) of section 9 of the Act. In this connection *Emperor v. Sibnath Banerji and others* (1), may be seen. In these circumstances I overrule the contention that on the inclusion of Sanjauli within the rating area of Simla amendments in the current valuation list of that rating area could not be made.

Section 18 (1) of the Act as amended by East Punjab Act, XXXIII of 1948, reads —

“ 18 (1). In every case where a new valuation list is to be made of any rating area, the assessing authority shall give public notice of such intention in such manner as may be prescribed, and may serve a notice on the owner, occupier or lessee of any building or land in the said area, or on any one or more of them, requiring him, or them to make return containing such particulars as may be prescribed.”

Section 18 (1) of the Act as originally passed provided that where the assessing authority considers that an amendment of the current valuation list may be

(1) A. I. R. 1945 P. C. 156

R. S. Bal-
mokand Kohli
and 17 others

v.

State of
Punjab

Harnam Singh
J.

required the assessing authority shall serve notice on the owner, occupier or lessee of every building or land in the area or any one or more of them requiring him or them to make a return in such particulars as may be prescribed. Notice under section 18(1) of the Act as amended by East Punjab Act No. XXXIII of 1948, is not necessary to be given to the owner, occupier or lessee of buildings or lands in the rating area in the case of an amendment in the current valuation list.

Mr Tek Chand then urges that valuation list for the rating area of Simla could not have been brought into force as from the 26th January 1950. In paragraph 11 of the written statement it is said that the valuation list of the rating area of Simla came into force on the 1st of April 1950 and buildings and lands situate in Sanjauli have been taxed with effect from the 1st day of April 1950.

No other point was pressed in arguments.

For the reasons given above, I would discharge the rule and dismiss with costs Civil Writ Application No. 190 of 1951.

KHOSLA, J. I agree.