
(1951) 12 AHC CK 0022

Allahabad High Court

Case No: Civil Miscellaneous Case No. 30 of 1951

Municipal Board

APPELLANT

Vs

District Judge

RESPONDENT

Date of Decision: Dec. 17, 1951

Acts Referred:

- Constitution of India, 1950 - Article 227
- Uttar Pradesh Municipalities Act, 1916 - Section 160

Citation: AIR 1952 All 505

Hon'ble Judges: Agarwala, J

Bench: Single Bench

Advocate: Harnandan Prasad, for the Appellant;

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Agarwala, J.

This is an application by the Municipal Board, Allahabad, under Article 227 of the Constitution praying that the order of the Additional District Magistrate passed by him u/s 160, U.P. Municipalities Act, be set aside.

2. The civil Court buildings and compounds situated at Allahabad were assessed at Rs. 6,528 and 5,520 respectively in the year 1945. The assessment was revised in the year 1950 by a Revising Officer of the Municipal Board and the assessment was enhanced, the civil Court buildings being assessed at Rs. 13,160 while the compound was assessed at Rs. 10,900.

3. As the civil court buildings and compound are in charge of the District Judge of Allahabad, the District Judge filed an appeal against the order of the Revising Officer before the District Magistrate of Allahabad as provided u/s 160, Municipalities Act. The

appeal was disposed of by the learned Additional District Magistrate who allowed it. He held that there was no justification for enhancing the original assessment of the buildings and the compound. It is against that order that this application has been made.

4. No one appears on behalf of the District Judge, Allahabad.

5. The enhancement of the buildings and the compound was made by the Revising Officer as in his view the value of the buildings had appreciated since the previous assessment was made in 1945. He raised the assessment of the compound not because its value had increased, but because more rent was received from it than used to be done previously. The learned Additional District Magistrate considered that the value of the buildings had not increased since 1945. For this he relied upon his own experience as an executive officer and not upon any evidence tendered in the case. As regards the compound, he was of the opinion that assessment could, be enhanced if the value had appreciated and it could not be enhanced merely because rent had increased. It was contended that since there was no evidence before the Additional District Magistrate for holding that the value of the buildings had not increased since 1945, he could not interfere with the order of the Revising Officer. It was further argued that as the rent of the compound had increased the learned Additional District Magistrate was not justified in reducing the assessment made by the Revising Officer.

6. It appears to me that upon the findings of the learned Additional District Magistrate, assuming that they are incorrect, this Court has no jurisdiction to interfere with the order under the powers conferred upon it by Article 227 of the Constitution. That article confers the power of superintendence over all Courts and tribunals throughout the territories in relation to which the High Court exercises jurisdiction. It may be assumed that the Additional District Magistrate, exercising appellate power u/s 160, Municipalities Act, is a tribunal and his order is a judicial order; but the power of superintendence is limited in its character. It is exercised when there is refusal by an inferior tribunal to exercise a jurisdiction vested in it or when there is an exercise of a jurisdiction which is not vested in that tribunal or to correct some error apparent on the face of the record which may arise from some defect or informality in the proceedings. The power is not exercised to correct mere errors of law or errors of fact not involving defect of jurisdiction or procedure as stated above.

Assessment proceedings are not proceedings in a Court of law where questions are determined upon evidence on the record. In making assessment orders Revising Officers are entitled to take judicial notice of facts which are generally known, such as whether values of properties have generally appreciated or not. So also, the Additional District Magistrate hearing an appeal u/s 160, Municipalities Act may take judicial notice of facts which are of general knowledge. In doing that he may differ from the opinion expressed by the Revising Officer. In taking judicial notice of the fact that values of buildings have not increased since 1945, the learned Additional District Magistrate was perfectly within his jurisdiction and there is no defect or error in the procedure adopted by him. In

deciding that the assessment should be on the basis of the value of the compound and not upon the increment in the rent fetched by it, the learned Additional District Magistrate again acted within his jurisdiction. Even if the order was wrong in law, this Court has no jurisdiction to correct it in the exercise of its power of superintendence.

7. There is no force in this application. It is dismissed. As no one appears on behalf of the opposite party, I make no order as to costs.