

IN THE SUPREME COURT OF INDIA
(CIVIL APPELLATE JURISDICTION)

CIVIL APPEAL NO. 4087 OF 2007

SHRI JAGAN NATH

Appellant(s)

VERSUS

STATE OF HIMACHAL PRADESH & ORS.

Respondent(s)

O R D E R

The present Civil Appeal arises out of the order dated 22.12.2004 in Writ Petition(Civil) No. 885 of 2004 passed by the Learned Division Bench of the High Court of Himachal Pradesh at Shimla whereby the Writ Petition preferred by the appellant has been dismissed on the ground that the incorporation of Nagar Panchayat Area Bhota in Part II of the Schedule I is in-accordance with the Principle of the Himachal Pradesh Municipal Act, 1994 and the Court did not find any illegality or infirmity in the decision of the State Government.

However, from the copy of the Writ Petition filed by the Appellant before this Court, we find that the appellant had claimed the following reliefs in the Writ Petition:-

i) Declared and struck the provisions of section 3 and 4 of the Himachal Pradesh Municipal Act, 1994 being Act No. 13 of 1994 contrary to the constitutional scheme as enshrined Article 243Q of Part IX-A of the Constitution of India.

ii) Declare the provision of Section 3 and 4 are violative of petitioners fundamental right Article 14, 19 and 21 of the Constitution of India and the same is liable to be declare as unconstitutional null and void ab-initio.

iii) To declare that the levy and recovery of the property tax is illegal as there is no compliance of the provisions of Section 74 of the impugned act and

the notice are without jurisdiction and the same are liable too be quashed by this Hon'ble Court.

iv) Issue a writ of certiorari for quashing the impugned notice dated 4.8.2004 and other similar notices of like nature be quashed and no opportunity of being heard was given to the petitioners which is violative of fundamental right under Article 14, 19 and 21 of the Constitution of India. That the entire record pertaining to the case may kindly be summoned for the kind perusal of this Hon'ble Court.

v) Any other writ, order or directions, which this Hon'ble Court deems just and proper may also be passed in favour of the petitioner and against the respondents."

The provisions of Section 3 and 4 of the Himachal Pradesh Municipal Act, 1994 were challenged before the High Court. However, there is no discussion on the aforesaid plea. In this view of the matter, we set aside the impugned order and remand the matter back to the High Court for deciding the same on merits and in accordance with law.

The Civil Appeal is disposed of in the above terms.

.....J.
[R.K. AGRAWAL]

.....J.
[ABHAY MANOHAR SAPRE]

NEW DELHI;
AUGUST 3, 2017

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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Date : 03-08-2017 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE R.K. AGRAWAL
HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE

For Appellant(s) Mr. Amit Gupta, Adv.
Mr. Yashraj Singh Deora, Adv.
Mr. Anant A. Pavgi, Adv.
M/s Mitter & Mitter Co., AOR

For Respondent(s) Mr. D.K. Thakur, AAG
Mr. Varinder Kumar Sharma, AOR

UPON hearing the counsel the Court made the following
O R D E R

The Civil Appeal is disposed of in terms of the signed
order.

Pending applications, if any, shall stand disposed of
accordingly.

(POOJA SEHGAL)
SENIOR PERSONAL ASSISTANT

(CHANDER BALA)
COURT MASTER

(Signed order is placed on the file)