

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS  
CIVIL APPEAL NO(s). 2661 OF 2000

MUNICIPAL CORPORATION, FARIDABAD

Appellant (s)

VERSUS

BABU RAM (DEAD) BY L.RS.

Respondent(s)

(With office report )

Date: 11/09/2007 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.K. SEMA  
HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA

For Appellant(s) Mr. Manjit Singh, AAG  
Mr. T.V. George, Adv.  
Mr. Abhishth Kumar, Adv.

For Respondent(s) Mr. Manoj Swarup, Adv.

UPON hearing counsel the Court made the following  
ORDER

Appeal is disposed of in terms of the signed order.

( Ravi P. Verma ) ( Anand Singh )  
Court Master Court Master

[Signed order is placed on the file]  
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2661 OF 2000

MUNICIPAL CORPORATION, .....APPELLANT(S)  
FARIDABAD

Versus

BABU RAM (DEAD) BY LRS. ....RESPONDENT(S)

ORDER

The respondent allegedly raised a permanent, illegal, unauthorised construction without the permission on the government land on the north of which there is a road, on the south side there is a road and house, on the east road exists and on the west side again a road.

A notice under sub-Section (2) of Section 50 of Faridabad Complex (Regulation & Development Act) 1971, (hereinafter 'the Act', for

short) was issued to the respondent. He filed a civil suit. It was decreed. The appeal preferred by the Corporation was dismissed. In a second appeal to the High Court, the High Court has affirmed the order of the trial Court. This appeal is preferred by the Municipal Corporation, Faridabad.

At the outset, we may clarify that the impugned notice dated 25/2/1993 was issued by the Administrator, Faridabad Complex Administration, Ballabgarh Zone. It is stated by the .....2.

-2-

appellant that subsequently the name has been changed to Municipal Corporation, Faridabad.

We propose to dispose of this appeal purely on question of law with this short order.

Instead of resorting to the procedure established under the Act, it appears the plaintiff straightway filed a suit on 2/3/1993 without filing reply to show-cause notice. Section 51 of the Act imposes bar of jurisdiction of Courts. It states that no order made by the State Government or any authority in exercise of any power conferred by or under this Act shall be called in question in any Court.

Section 34 of the Act lays down an appeal provision. It provides that any person aggrieved or affected by an order of the Chief Administrator may within sixty days from the date of such order prefer an appeal to the State Government and the order of the State Government on such appeal shall be final.

Mr. Manoj Swarup, learned counsel appearing for the respondent strenuously contended that the Civil Court has passed the decree on the ground that notice is totally vague. The trial Court also held that there is no evidence that the respondent has encroached upon the Government

land. The counsel

.....3.

-3-

therefore argued that the decree passed by the trial Court and affirmed by the first appellate court and High Court cannot be disturbed at this stage. We are unable to countenance with this contention. We have already pointed out that Section 51 bars the jurisdiction of the civil courts. Therefore, the trial Court entertaining a civil suit is without jurisdiction. It is well settled principles of law that a decree passed by a court without jurisdiction is a nullity. Secondly, the respondent did not show cause to the notice. If an order is passed by the Chief Administrative Officer under Section 32(2), the same is appealable under Section 34 of the Act. Having not resorted to the procedure prescribed under the Act, the respondent straightway filed a civil suit and the trial Court decreed the suit without any jurisdiction. It is unfortunate that despite of detailed procedure prescribed under the Act, all the Courts, including the High Court, simply affirmed the decree passed by the trial Court without resorting to the procedure prescribed under the Act.

In the view that we have taken, the decree passed by the trial Court, the order passed by the appellate Court and the judgment passed by the High Court in second appeal are all set aside.

We now permit the respondent to file a reply to the

.....4.

-4-

show cause notice dated 25/2/1993 within two weeks from today. On a reply/objection being filed within the stipulated time under the Act, the competent authority shall dispose of the matter by a speaking order within two weeks thereafter. If, however, such reply is not filed within the stipulated time, it is open to the competent authority to reject the request for filing any reply as being barred by time granted by this Court. We make it clear that we have not expressed any opinion on the merits of the matter, which shall be decided by the authority(s) in accordance with

law uninfluenced by any observation made in this matter.

With the aforesaid observation, the appeal is disposed of.

.....J.  
( H.K. SEMA )

New Delhi;  
September 11, 2007.

.....J.  
( LOKESHWAR SINGH PANTA )