
(1914) 04 AHC CK 0013
In the Allahabad High Court

Abdul Samad

APPELLANT

Vs

Municipal Board

RESPONDENT

Date of Decision : 07-04-1914

Acts Referred:

Uttar Pradesh Municipalities Act, 1916 — Section 152, 87

Citation : AIR 1914 All 551(1) : 25 Ind. Cas. 207(1)

Hon'ble Judges : Henry Richards, C.J; Banerji, J

Bench : Division Bench

Judgement

1. This appeal arises out of a suit brought by the plaintiff against the Municipal Board, of Meerut. The circumstances are as follows : The plaintiff has been found to be the owner of certain shops on both sides of a public road in the city of Meerut. In the past there was some sort of gallery resting on arches Which connected the shops on both sides of the road. The gallery had got out of repair and the plaintiff applied to the Municipal Board for leave to repair the arches and gallery and also to build on the top of the gallery. The Municipal Board refused permission. Thereupon the suit out of which this appeal has arisen was instituted, the plaintiff claiming a perpetual injunction restraining the Municipal Board from interfering with what he wanted to do and damages. On the facts as found so far as the plaintiff sought to repair an existing structure the case came within the provisions of Section 87 of the Municipalities Act; so far as he sought to make a new structure the case came within the provisions of Section 88. We need not consider now the provisions of the last mentioned section. So far as the case came within that section it was admittedly within the right of the Board to refuse permission to allow the structure to be made. Section 87. provides that a person who intends to re-erect a building of the kind must give notice in writing of his intention, The Board may refuse to grant permission upon some one or more of the grounds mentioned in the section. If they neglect to answer the application there is further provision made showing the applicant the course he is entitled to take. If the order of refusal is made and the applicant feels himself aggrieved at what the Municipal Board has done an appeal is provided by Section

152, which further provides that save by such appeal the order of the Municipal Board shall not be liable to be called in question. It is quite clear, therefore, that if the plaintiff in the present case felt himself aggrieved by the order of the Municipal Board refusing to give him leave to repair and re-erect his gallery and arches, his remedy was by way of an appeal. But it is quite clear that he is not entitled to maintain a suit like the present one. This being so, the decision of the lower Appellate Court was correct and the appeal fails. We accordingly dismiss the appeal with costs.