
(2001) 10 AP CK 0093
In the Andhra Pradesh High Court
Case No : CRP No. 4429 of 2000

Alladi Venkateswarlu

APPELLANT

Vs

Warangal Municipal Corporation, Warangal

RESPONDENT

Date of Decision : 29-10-2001

Acts Referred:

Andhra Pradesh Municipal Corporations Act, 1994 — Section 14
Hyderabad Municipal Corporation Act, 1955 — Section 282, 282(1), 282(2)

Citation : (2002) 1 ALD 861

Hon'ble Judges : E. Dharma Rao, J

Bench : Single Bench

Advocate : Bankatlal Mandhani, for the Appellant; K. Venugopal Reddy, for the Respondent

Final Decision : Allowed

Judgement

1. This civil revision petition is filed against the order of the Principal District Judge, Warangal dated 26-7-2000 in CMA (SR) No. 7215 of 1999, under which the appeal preferred by the petitioner herein was rejected.

2. The petitioner herein challenging the Demand Notice dated 1-10-1999 issued by the Municipal Corporation, Warangal calling upon him to pay a sum of Rs. 24,275/-towards property tax in respect of his house, preferred a Civil Miscellaneous Appeal u/s 14 of the A.P. Municipal Corporation Act, 1994 read with Section 282(d) of the Hyderabad Municipal Corporations Act, 1955 before the learned District Judge, Warangal. The learned District Judge by the order impugned, rejected the appeal filed by the petitioner on the ground that the petitioner has not deposited the amount of tax demanded by the Municipality before filing the appeal. Aggrieved by the said order of the learned District Judge, the present revision has been preferred.

3. The learned Counsel for the petitioner placing reliance on Section 282 of the Hyderabad Municipal Corporations Act "1955 (for short "the Act") contends that at the time of filing the appeal, the question of depositing the amount of tax does

not arise.

4. Sub-section (1) of Section 282 of the Act provides that "subject to the provisions hereinafter contained, appeals against any rateable value or tax fixed or charged under this Act shall be heard and determined by the Judge".

5. Sub-section (2) of Section 282 of the Act deals with hearing of appeal by a Judge and Sub-section (2)(d) of the Act provides that "in the case of an appeal against tax, the amount claimed from the appellant has to be deposited by him with the Commissioner.

6. Basing on the above provisions of the Section, learned Counsel for the petitioner submits that the question of depositing the amount of tax as demanded by the respondent does not arise at the time of filing the appeal, as the same has to be deposited before hearing and determining the appeal by the Judge, and therefore, he contends that the order of the Court below in rejecting the appeal of the petitioner at the threshold on the ground of not depositing the demanded amount of tax is not correct and the same is liable to be set aside. In support of his contention, the learned Counsel relied on a judgment of this Court in *Municipal Corporation of Hyderabad v. Taher Begum* 1974 ALT 316. In the above case, a learned single Judge of this Court, while dealing with Section 282 (2)(d) of the Act, relied on a judgment of the Supreme Court in *Municipality of Taloda Vs. The Charity Commissioner and Others*, In the said judgment, the Supreme Court dealing with the provision to Section 9 of the U.P. Sales Tax Act, under which it is provided that an appeal shall not be entertained unless it is accompanied by satisfactory proof of payment of the admitted tax, held that "the word entertained does not mean that a no appeal shall be received or filed and it only means the appeal should not be heard unless satisfactory proof of payment of the amount of the admitted tax". Following the above judgment of the Supreme Court, learned single Judge of this Court in the above decision held that "the prohibition is with regard to hearing of the appeal and not with regard to filing of the appeal. It is not possible to say that the appeal is not validly filed even if it is filed without depositing the amount of enhanced tax with the Commissioner". Therefore, what Section 282(2)(d) says that no appeal shall be heard by the Judge, unless the amount claimed by the Municipality from the appellant towards tax is deposited by him with the Commissioner. This provision is therefore, with regard to hearing of the appeal and not with regard to the filing of the appeal. Therefore, it cannot be said that the appeal is not validly filed, even if it is filed without depositing the rateable value or tax fixed or charged under this act. The intention of the legislature is that the amount of tax claimed has to be deposited by the appellant before hearing of the appeal and it does not mean that the amount has to be deposited before filing the appeal itself. In that view of the matter, the order impugned is liable to be set aside.

7. In the result, the CRP is allowed and the impugned order is set aside. No order as to costs.