

(2006) 02 MP CK 0001

In the Madhya Pradesh High Court

Case No : Writ Petition No. 348 of 2004

Anil Saraswat and Another

APPELLANT

Vs

Municipal Council, Ganj Basoda and Others

RESPONDENT

Date of Decision : 27-02-2006

Acts Referred:

Madhya Pradesh Municipalities Act, 1961 — Section 109

Citation : (2006) 2 MPJR 71

Hon'ble Judges : Shraavan Shanker Jha, J;S.M. Samvatsar, J

Bench : Division Bench

Advocate : Akhil Sinha with Mr. A.K. Nirankari, for the Appellant; K.N. Gupta with Mr. Anil Sharma, Advocate for respondent no. 1, Mr. Vivek Khedkar, Govt. Advocate for respondent no. 2, 4 and 5 and Mr. Deepak Chandna, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Respondent No. 5 Principal Secretary, Local Self Government Shri P.D. Meena is present in court in pursuance of the order of this Court dated 27.02.2006. Report has been submitted, whereby it is intimated that orders have been passed u/s 35-ka of M.P. Municipalities Act 1961 against the then President Kanchhedilal Jain of Municipal Council Ganj Basoda. Report is taken on record and the presence of Shri Meena is dispensed with.

Shri Vivek Khedkar, Govt. Advocate submitted that now this petition has rendered infructuous as respondent No. 3 is removed from the office and as per order of the State Government he is not eligible to contest the election for further period of five years.

Counsel for the petitioner submitted that the sale deeds executed by the President of the Municipal Council are in violation of Section 109 of the M.P. Municipalities Act, therefore sale deeds be declared null and void. Counsel for the State submitted that two sale deeds have been cancelled.

Question of cancellation of sale deeds will not arise as the title of the property will remain with the Municipal Council unless properties are sold after the previous concurrence of the State Government u/s 109 of the M.P. Municipalities Act. Sub section (3) of the Section 109 of the Act provides for the manner of the transfer of the property and it provides that no property vesting in the Council in trust shall be leased, sold or otherwise conveyed and it further provides that no land exceeding fifty thousand rupees in value shall be sold or otherwise conveyed without the previous sanction of the State Government and every sale or other conveyance of property vesting in the Council shall be deemed to be subject to the conditions and limitations imposed by this Act or by any other enactment for the time being in force. It is admitted by the counsel for the State that no permission has been granted by the State for the transfer of the land of the Municipal Council and the valuation of the land is more than fifty thousand rupees. Therefore the sale deeds executed by the then President of Municipal Council in favor of different persons are void and they do not confer any title on the purchasers and the properties of the Municipal Council shall remain with Municipal Council as the properties are sold in violation of Section 109 of the M.P. Municipalities Act. If the purchasers have any grievance against the said sale they may recover the purchase price with interest from the vendor i.e. the then President of the Municipal Council or the then Chief Municipal Officer, as the case may be, in accordance with law. Petition therefore succeeds and is allowed without any orders as to costs.