
(1999) 03 MP CK 0011

In the Madhya Pradesh High Court

Case No : Writ Petition No. 2614 of 1998

Dhanya Kumar Dharamdas Agarwal and Others

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 12-03-1999

Acts Referred:

Madhya Pradesh Municipal Corporation Act, 1956 — Section 173, 174, 174(1), 184

Citation : (1999) 2 MPLJ 56

Hon'ble Judges : Ramesh Surajmal Garg, J

Bench : Single Bench

Advocate : Seema Agrawal, for the Appellant; P.D. Gupta, for Respondent No. 1, V.S. Shroti and Manish Chawra, for the Respondent

Judgement

R.S. Garg, J.

Ms. Seema Agrawal, learned counsel for the petitioners.

Shri P.D. Gupta, learned counsel for the respondent No. 1.

Shri V.S. Shroti, learned counsel with Shri Manish Chawra for the respondents Nos. 2 and 3.

With the consent of the parties, the matter is finally heard.

The petitioners who are holding, owning and possessing certain properties were served with certain notices issued u/s 173 of M. P. Municipal Corporation Act, 1956. Against the bill issued u/s 173 of the Act, the petitioners filed their objections in accordance with Section 173 of the Act. The respondents did not decide the objections filed by the present petitioners, therefore the petitioners have filed the present writ petition. According to the petitioners, when the statute requires the respondent- Corporation to give the notice of the liability incurred in default of payment and also the time within which an objection may be preferred as against such claim then the respondents could not sit tight over the objections raised by the petitioners. The petitioners further submit that the

respondents are duty bound to decide the objections filed by them. Learned Government Advocate, Shri Gupta submits that the State has nothing to do in the matter because the matter is between the petitioner and the respondents Nos. 2 and 3.

Learned counsel for the respondents Nos. 2 and 3 submits that the impugned notices, bills can be challenged in an appeal u/s 184 of the Act and as the petitioners have not filed any appeal, the petition deserves to be dismissed. I have heard the parties at length.

Section 173 provides that a bill shall be presented for making certain demands. Every such bill shall specify the period for which and the property, occupation or thing in respect of which the sum is claimed. The respondents are required to give notice of the liability incurred in default of payment and the time within which an objection may be preferred as against such claim. If the sum, for which the bill is presented is not paid and no objection is preferred within fifteen days from the presentation of the bill, the Commissioner may serve upon the person to whom such bill has been presented a notice of demand in the form prescribed by the bye-laws. If such a notice of demand is issued u/s 174(1) of the Act any person aggrieved by the notice can prefer an appeal u/s 184 of the Act. An appeal u/s 184 of the Act can only be preferred against a notice of demand issued under sub-section (1) of Section 174 and not against presentation of the bill making certain demands u/s 173 of the Act. In the present case, even otherwise provisions of Section 174 cannot be applied because the objections were already filed and in absence of decision on the objections, a demand could not be raised. If the objections are not filed within 15 days from the date of the presentation of the bill only then the Commissioner is entitled to serve a notice of demand and not otherwise. The jurisdiction u/s 174 can be assumed only if the amount is not paid and no objection has been preferred. In the present case, a notice of demand could not be issued u/s 174 because of the objections filed u/s 173 of the Act.

As an appeal cannot be preferred against the bill of demand the objection of the other side deserves to and is accordingly rejected. It is for the respondent-corporation to hear and decide the objections. So long as the objections are not decided they would not be entitled to exercise the powers u/s 174 of the Act. The respondents are free to give some date of hearing to the petitioners for hearing the objections filed by the petitioner/petitioners. If such a notice is issued by them, the petitioners may appear before the authorities and make their submissions in support of their objections.

The petition to the extent indicated above is allowed. No costs.