(2001) 06 KAR CK 0032

In the Karnataka High Court

Case No : Writ Petition No''s. 41427-28/99

Sandur Laminates Limited and Another — APPELLANT

Vs

The Asst. Commissioner and Another — RESPONDENT

Date of Decision : 08-06-2001

Acts Referred:
Karnataka Municipalities Act, 1964 — Section 94

Citation : (2004) ILR (Kar) 1629 : (2001) 3 KCCR 2163

Hon'ble Judges : V. Gopala Gowda, J

Bench : Single Bench

Advocate : Madhusudhan and R. Naik, for the Appellant; Suman Hegde, HCGP for R1 and P.N. Nanjareddy, for R2, for the Respondent

Final Decision : Allowed

Judgement

V. Gopala Gowda, J.—Petitioners are aggrieved by the imposition of water rate while revising the property tax. The principal contention of the petitioners is that when there is no supply of water by the Town Panchayat to their properties, levy of water rate is wholly illegal and unwarranted.

2. Statement of objections is filed on behalf of the respondents justifying the levy and collection of water rate. It is stated that irrespective of supply of water, all the property owners have to pay water rate as the Town Panchayat had spent huge sums for laying pipelines to public taps, maintenance of public toilets, Sarvajanik Shauchalayas and hence a part of the cost shall be borne by the tax payers.

3. In order to resolve the controversy involved in these Writ Petitions, it is essential to look into the provision which empowers levy and collection of water rate. The relevant portion of Section 94 of the Karnataka Municipalities Act, 1964 is extracted below:-

"(94) TAXES WHICH MAY BE IMPOSED :-

(1) Subject to the general or special orders of the Government, a Municipal Council,

(a) xx xx xx

(b) with the sanction of the Government and at rates not exceeding those specified in schedules I, III, IV, VI and VII may levy any one or more of the following taxes:-

(i) to (vii) xx xx xx

(viii) a water-rate or water - rates for water supplied by the municipal Council imposed in one or more of the following forms that is to say, in the form of a tax assessed on buildings and lands or in any other form including in the form of charges for such supply, fixed in such mode or modes as shall be best adapted to the varying circumstances of an class of cases or of any individual case."

(emphasis supplied)

A plain reading of the words emphasised in the above provision makes it clear that water-rate or water rates can be levied for the water supplied. There is no ambiguity in the language employed in the above provision. If water is supplied, water rate can be levied. If there is no supply of water, question of levying or collecting water rate or water rates does not arise. Supply of water is pre-condition for levying the water rate.

4. If the contention of respondents is accepted, it amounts to arbitrariness as persons to whom water is supplied by the municipal Council and persons who does not use water supplied by the municipal Council are treated alike. Without using water supplied by the municipal Council, a tax payer need not pay water rate. Therefore, the levy and imposition of water rate on the petitioners, who admittedly does not use water supplied by the town panchayat, is contrary to the aforesaid provision and discriminatory.

5. Accordingly, these Writ Petitions are allowed. The 2nd respondent Town Panchayat shall not levy and collect the water rate from the petitioners while assessing or revising the property tax.