

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7177 OF 2013
(@ SPECIAL LEAVE PETITION(C)NO.13303 OF 2009)

M/S.ISWARYA ASSOCIATES

...APPELLANT

VERSUS

THE BRUHATH BANGALORE
MAHANAGARA PALIKE & ANR.

...RESPONDENTS

O R D E R

1. Leave granted.

2. This appeal is directed against the judgment and order passed by the High Court of Karnataka at Bangalore in Writ Appeal No.387 of 2009, dated 25.02.2009 whereby the High Court has dismissed the Writ Appeal filed by the appellant herein.

3. By proceedings dated 26.12.2008, the Assistant Revenue Officer, the Bruhath Bangalore Mahanagara Palike ('the B.B.M.P.' for short), had granted temporary license/permission to the appellant herein for collection of the parking fee in a particular area. Subsequently, by its order dated 02.01.2009, the respondents have cancelled the license/ permission granted by the Assistant Revenue Officer. It is this action of the respondents which had prompted the appellant herein to approach the Writ Court in Writ Petition No.580 of 2009.

4. The learned Single Judge of the High Court, while entertaining the petition, had refused to grant the interim

order sought for by the appellant. Aggrieved by the same, the appellant had filed Writ Appeal No.387 of 2009 before the Division Bench of the High Court. The High Court had called for the records of the writ petition since the consideration of the request made by the appellant for grant of interim order is in the main matter itself.

5. After hearing the learned counsel for the parties, the High Court has dismissed the Writ Appeal. Aggrieved by the same, the appellant is before us in this appeal.

6. It is not in dispute nor it can be disputed that the license/permission was granted to the appellant for collection of the parking fee by the Assistant Revenue Officer. Under Section 348 of the Karnataka Municipal Corporations Act, 1976 (for brevity 'the Act'), it is the Standing Committee alone which can grant such license/permission. Keeping aforesaid provisions of the Act in view, the Division Bench of the High Court has sustained the order passed by the respondents dated 02.01.2009.

7. Shri P. Vishwanatha Shetty, learned senior counsel appearing for the appellant would submit that since the respondent had made only temporary arrangements while granting license/permission to the appellant for collection of the parking fee, they were not justified in cancelling the said license/permission. An enquiry was made by us as to whether the

Act provides for granting of the said license/permission for collection of the parking fee by the Assistant Revenue Officer, the learned senior counsel was unable to point out any such provision in the Act.

8. The learned senior counsel fairly admits that it is not the Assistant Revenue Officer but only the Standing Committee who could have granted the license/permission for collection of the parking fee.

9. After having carefully perused the provisions of Section 348 of the Act as well as the impugned judgment and order passed by the High Court we are of the considered opinion that the High Court has not committed any error whatsoever which would call for our interference. The appeal, therefore stands dismissed.

Ordered accordingly.

JUDGMENT

.....J.
(H.L. DATTU)

.....J.
(SUDHANSU JYOTI MUKHOPADHAYA)

NEW DELHI;
AUGUST 27, 2013