

Syed Qasim Hussain (Dead) By Lrs and Others

Vs

Municipal Board, Sandi

Civil Appeal No. 1740 of 1973

(O. Chinnappa Reddy, K. Jagannatha Shetty JJ)

25.08.1987

ORDER

1. The High Court was clearly in error in holding that the suit was bad for non-compliance with Section 326 of the Municipalities Act which requires prior notice to be issued to the Municipality. A notice was in fact issued addressed to the President, Municipal Board. The High Court held that it was not a proper notice as it was not addressed to the Municipal Board. We do not agree with this hypertechnical view taken by the High Court. We think that it was a proper notice and that there was compliance with the requirement of Section 326. In fact we notice that the suit was contested by the President on behalf of the Municipality. If the President could properly represent the Municipality in the suit and contest the same, we do not see why a notice addressed to him should be held to be not a proper notice. The judgment of the High Court is, therefore, set aside and the matter is remitted back to the High Court for disposal on merits. The High Court is requested to dispose of the second appeal within six months from today. The appeal is accordingly disposed of with no order as to costs.

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