Supreme Court of India
Krishi Utpadan Mandi Samiti vs Ashok Kumar Dinesh Chandra And ... on 29 August, 1996
Equivalent citations: 1996 VIAD SC 780, JT 1996 (7) SC 545, 1990 LablC 1490, 1996 (6) SCALE 323, (1996) 10 SCC 100, 1996 Supp 5 SCR 352, (1997) 1 UPLBEC 505
Bench: M Punchhi, S V Manohar
ORDER

1. By the impugned common judgment, the High Court has remitted the matter back to the Mandi Samitis concerned to adjudicate upon the claim of the writ petitioners/respondents herein, that no market fee is chargeable from them as no service is rendered. This direction was made despite the averment made by the Mandi Samitis in the counter affidavits that they were rendering some services like arrangement for electric light, water, scavenging, other amenities in the markelyards, provision of tents, urinals, culverts and construction of link roads. Besides the existing services being rendered, infrastructure of future services likely to be rendered had been disclosed inasmuch as the process was said to be going on for acquisition of land for construction of markctyards, market complexes consisting of godowns, post-offices, banks, warehouses, shelters and rest-houses etc. The High Court in taking that step has put the Mandi Samitis into a war of wits between them and the traders; the Samitis contending that they have provided some facilities and are likely to provide more in future and the traders contending that no such facilities have been provided and none were expected to be provided in the future. This controversy has been enlivened on the supposition that on the principle of quid pro quo, there should be near- balance of the fee demanded and services rendered. That, in our view, is not the correct approach. The High Court should not have left the matter at large with the Mandi Samitis who in the nature of things, would have to be Judges in their own cause; something undesirable.

2. This Court in M.C.D. and Ors. v. Mohd. Yasin and Anr. summing up the judge-made law on the point, observed as follows:

...Though a fee must have relation to the services rendered, or the advantages conferred, such relation need not be direct, a mere casual relation may be enough. Further neither the incidence of the fee nor the service rendered need be uniform. That others besides those paying the fees are also benefited does not detract from the character of the fee. In fact, the special benefit or advantage to the payers of the fees may even be secondary as compared with the primary motive of regulation in the public interest. Nor is the court to assume the role of a cost accountant. It is neither necessary nor expedient to weigh too meticulously the cost of the services rendered etc. against the amount of fees collected to as to evenly balance the two. A broad co-relationship is all that is a necessary quid pro quo in the strict sense is not the one and only true index of a fee; nor is it necessarily absent in a tax.

3. This view has been constantly followed in later decisions. The element of quid pro quo in its strict sense is not always a sine qua non for a fee. See in this connection City Corporation of Calicut v. Thachambalath Sadalinan and Ors. wherefrom the following passage may by read with advantage:

It is thus well settled by numerous recent decisions of this Court that the traditional concept in a fee of quid pro quo is undergoing a transformation and that though the fee must have relation to the services rendered, or the advantages conferred, such relation need not be direct, a mere casual relation may be enough. It is not necessary to establish that those who pay the fee must receive direct benefit of the services rendered for which the fee is being paid. If one who is liable to pay receives general benefit from the authority levying the fee the element of service required for collecting fee is satisfied. It is not necessary that the person liable to pay must receive some special benefit or advantage for payment of the fee.

4. Applying the ratio of the above decisions to the facts emerging on the present files, it becomes patent that the appellant-Samitis do render a number of services to persons transacting their business and deals in the market-yards as elsewhere, and it is not necessary that what they are charging, would be shown to have been spent penny by penny for the benefit of the fee payers and others concerned with them. The High Court should have, if doubting, gone into the question itself, whether the claim of the Samitis in rendering services was authentic or not, or else to have gone by the word of the Samitis that they were rendering such services. There was no occasion for the High Court to have remitted the matter to the, Mandi Samitis and thereby open flood-gates of never ending disputes; counter-productive to the good objects sought to be achieved by the concerned enactment.

5. For the foregoing reasons, we allow these appeals, set aside the impugned orders of the High Court and dismiss the writ petition preferred by the respondents before the High Court, but without any order as to costs.