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Baldwin Union Free School Dist. v. County of Nassau

Supreme Court, Appellate Division, Second Department, New York - September 10, 2014 - N.Y.S.2d - 2014 N.Y. Slip Op. 06043

School district brought action against county, alleging ordinance establishing and imposing “service charges” upon exempt users of sewer system violated equal protection and due process, violated General Municipal Law and county charter, and that adoption of ordinance was precluded by doctrine of preemption. School district moved for preliminary injunction and county cross-moved for summary judgment. The Supreme Court, Nassau County, granted school district’s motion and denied county’s motion. County appealed.

The Supreme Court, Appellate Division, held that trial court’s denial of summary judgment should have been without prejudice to renewal upon the completion of discovery.

While Trial court providently exercised its discretion in denying county’s motion, in effect, for summary judgment declaring that ordinance establishing and imposing “service charges” upon exempt users of sewer system was an authorized exercise of county’s lawmaking authority and was constitutional under the New York and United States Constitutions, such denial should have been without prejudice to renewal upon the completion of discovery.