

I am, with respect, unable to agree with that view. I do not see in what way the validity of the award is to be determined unless it be on the application for the mandamus. The award having been made, as I think, without jurisdiction, it is not necessary that it should be set aside; it was mere waste paper, and the only objection taken, or that could be taken, to the application made by the appellants to the respondents to pass the by-law, therefore, falls to the ground.

I would allow the appeal, discharge the order of the learned Chief Justice, and substitute for it an order for the issue of the mandamus as asked, with costs.

Simpson & Blair, Bowmanville, solicitors for the applicants.

H. F. Hunter, Bowmanville, solicitor for the respondents.

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