
(1957) 08 MAD CK 0019
In the Madras High Court

A. Palaniandi Chettiar

APPELLANT

Vs

Tiruchirapalli Municipality and Another

RESPONDENT

Date of Decision : 01-08-1957

Acts Referred:

Tamil Nadu District Municipalities Act, 1920 — Section 270

Citation : (1958) ILR (Mad) 311 : (1957) 70 LW 765 : (1957) 2 MLJ 386

Hon'ble Judges : Rajagopalan, J

Bench : Single Bench

Judgement

Rajagopalan, J.—The question for consideration is whether the licence fees the Municipality of Tiruchirapalli purported to levy, the right to collect which is farmed out to the second respondent, came within the scope of Section 270 of the Madras District Municipalities Act, Act V of 1920.

2. The right to collect the license fees was farmed out after an auction noticed in the District Gazette, dated 5th March, 1956. That notification made it clear that license fees were prescribed for payment by people in charge of single bullock bandies, double-bullock bandies and lorries bringing goods for sale in the nine localities. specified in the notification. In the counter-affidavit filed by the Municipality, in paragraph 5, it was averred:

This respondent, therefore, in pursuance of the right vested in it u/s 270 of the Act has fixed the levy of license fee in respect of carts, lorries, etc., which bring goods for sale or expose them for sale. I state that u/s 270 of the Act, the Municipality is empowered to levy the license fee and regulate the sale or exposure for sale of any article in or on any public street.

3. In paragraph II, the averment was:

Licence fee is levied only on vehicles which bring goods for sale and expose them for sale." 4. Section 270 of the Act runs:

The Executive Authority may, with the sanction of the Council, prohibit by public

notice or License regulate the sale or exposure for sale of any animals or articles in or on any public street or part thereof.

4. What Section 270 authorises the Municipality to license is the sale or exposure for sale in or on any public street or part thereof. That certainly does not authorise the Municipality to levy a fee for the use of the road or levy a fee on vehicles which carry goods for sale.

5. From the averments in the counter-affidavit which I have extracted above, read in conjunction with what was notified for sale, it is clear that what the Municipality purported to authorise was a levy of fee for the use of the road by vehicles conveying goods for sale. Conveyance of goods for sale will not amount to sale or exposure for sale within the meaning of Section 270 of the Act. Therefore, the license fees authorised by the Municipality fell outside the scope of Section 270 of the Act. Those license fees, the Municipality had no right to prescribe, no right to collect and no right to farm out.

6. The rule is made absolute and a writ of prohibition will issue as prayed for. No order as to costs.