
(1988) 06 KL CK 0037
In the High Court Of Kerala
Case No : W.A. No. 230 of 1988

Aliya Arabic College

APPELLANT

Vs

Kasaragod Municipality

RESPONDENT

Date of Decision : 08-06-1988

Acts Referred:

Citation : (1988) 2 ILR (Ker) 592

Hon'ble Judges : K.S. Paripoornan, J;K.G. Balakrishnan, J

Bench : Division Bench

Advocate : P.A. Mohammed, for the Appellant; M.P.R. Nair, for the Respondent

Judgement

K.S. Paripoornan, J.—The petitioner in the original petition is the appellant in this appeal. It is a society registered under the Societies Registration Act. It is stated that it is running an educational institution. The institution is exempted under the Income Tax Act as a charitable institution. The managing committee of the society decided to construct a building in a plot owned by the institution in the Kasaragod Municipality, which would fetch a steady income as rent. From the contribution received from the public, a pukka building was constructed with rooms to be let out as lodging rooms in the upstairs portion of the building and with rooms on the ground floor to be let out as shop rooms. The building was completed in 1986. It was inaugurated on March 27, 1986. The building is known as "Aliya Lodge". The short question that was posed for consideration before the learned single judge was whether the assessment of the above building known as "Aliya Lodge" for property tax by the Municipality is legal and valid. Reliance was placed on Section 101(1)(c) of the Municipalities Act claiming exemption from property tax. Section 101(1)(c) of the Act provides as follows :

"101. Exemption.--(1) The following buildings and lands shall be exempt from the property tax--.....

(c) choultries for the occupation of which no rent is charged and choultries the rent charged for the occupation of which is used exclusively for charitable

purposes."

2. The learned single judge held that a shopping complex-cum-lodging house is not a building of the nature contemplated by Section 101(1)(c) of the Act and so such a building does not qualify for exemption from property tax. The original petition filed by the petitioner, challenging exhibits P-2, P-3 and P-5 orders passed by the Kasaragod Municipality" and exhibit P-6 notice issued by the said Municipality, which were sought to be quashed in the original petition was dismissed. The petitioner has come up in appeal.

3. We heard counsel for the appellant, Mr. P.A. Mohammed, as also counsel for the respondent, Mr. M. P.R. Nair. The sole question argued before us was that the Income Tax Department has given exemption to the income received from the building and that aspect was not considered by the Municipality. It was also argued that the shopping complex-cum-lodging house in the instant case is a choultry and the rent obtained from the said building is used exclusively for charitable purposes. We are unable to agree with the said submissions. Even assuming that the rent obtained from the said building--shopping complex-cum-lodging house--is used exclusively for charitable purposes, it will not be sufficient for the purpose of getting exemption u/s 101(1)(c) of the Act. The building, in order to be exempt from the property tax, should be a "choultry". The exemption pleaded by the petitioner was under the second limb of Section 101(1)(c) of the Act and the learned single judge referred to the dictionary meaning of the word "choultry" as a caravanserai or a shed used as a place of assembly and observed that caravanserai is a place of rest for travellers and a modern lodging house is not a caravanserai. It was observed that the instant building is not merely a lodging house but also a commercial complex and such a building is not exempt from property tax u/s 101 of the Act. We concur with the said view of the learned single judge. We are of the view that the word "choultry" occurring in Section 101(1)(c) of the Municipalities Act should be construed as understood in common parlance and so considered, it can only mean a "satram". It is a matter of common knowledge that in these parts, a "choultry" or "satram" is understood as a building ordinarily given free of rent or let on a very moderate rent and such a building will never be of the character of a "shopping complex-cum-lodging house." In this view of the matter, we affirm the judgment of the learned single judge.

4. This appeal is without merit. It is dismissed with costs.