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(1925) 08 MAD CK 0052

In the Madras High Court

Dewan Bahadur G. Krishnamachari APPELLANT

Vs

The Municipal Council RESPONDENT

Date of Decision : 19-08-1925

Acts Referred:

Citation : 91 Ind. Cas. 933 : (1926) 24 LW 218

Hon'ble Judges : Viswantha Sastri, J

Bench : Single Bench

Judgement

Viswantha Sastri, J.—Petition by the plaintiff in S.C.S. No. 5450 of 1922 on the file of the Court of Small Causes, Trichinopoly, to revise the decree dated 16th April 1923.

2. The suit was to recover back professional tax collected from the plaintiff. The plaintiff is a resident of Hyderabad and has a house within the Municipal limits of Srirangam where he comes and spends a portion of his vacation. He was called upon to pay professional tax for carrying on money-lending business at Srirangam and paid a sum of Rs. 50, under protest. It was urged before me that as he did not reside within the Municipal limits of Srirangam, for 60 days in the half year for which the, tax was collected, he was not liable to be assessed, It was conceded that during the half year for which the tax was levied, the plaintiff did come and reside at his house at Srirangam for some days Such being the case, he was a person liable to be assessed, in case he came u/s 95 of the District Municipalities Act. The term ''residence'' is defined in Section 3, Clause (25) of the Act, and the plaintiff must, therefore, be deemed to reside within the limits of the Srirangam Municipality. Now assuming, for a moment that he ought to have resided for 60 days in the half year for which he was assessed, Section 354(2) of the Act read with Clause (28) of Schedule IV bars the suit. The case appears to me to be on all fours with the case of Municipal Council, Nellore v. Rangayya 6 Ind. Dec. 711 which was followed in Municipal Chairman, Virudupatti v. Saravana Pillai 10 L.W. 592. There a house which was completed only on 15th August 1893 was assessed on 11th September 1893 and tax collected for the

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half year ending 30th September 1893. It was held that although the building was not in a habitable state for 60 days in the half year, it should not be said that there was any illegal levy, and that the remedy lay only by way of appeal to the Municipal Council. I dismiss the petition with costs.

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