

(1933) 04 MAD CK 0013
In the Madras High Court

Kothandarama Pillai and Another

APPELLANT

Vs

The Municipal Council and Another

RESPONDENT

Date of Decision : 03-04-1933

Acts Referred:

Tamil Nadu District Municipalities Act, 1920 — Section 83(a)

Citation : AIR 1933 Mad 782 : (1933) 38 LW 642 : (1933) 65 MLJ 678

Hon'ble Judges : Krishnan Pandalai, J

Bench : Division Bench

Judgement

Krishnan Pandalai, J.—This is an appeal against the decision of the learned Subordinate Judge of Trichinopoly reversing a decision of the

District Munsif and awarding to the respondent, the Municipality of Trichinopoly, a decree for Rs. 173-10-0 being arrears of property tax from the

second half of the year 1924-1925 to 1927-1928 in respect of premises in the possession of the appellants. The defence was that the property

was exempt from the property tax u/s 83(a) of the Madras District Municipalities Act being a choultry as mentioned there. The Municipality

contended that the premises are not a choultry. The District Munsif accepted the defence but the learned Judge rejected it. Hence the appeal.

2. Section 83 of the District Municipalities Act says that the following buildings and lands shall be exempt from the property tax:

(a) Places set apart for public worship and either actually so used or used for no other purpose, choultries, buildings used for educational purposes

and libraries and playgrounds which are open to the public and from which no income is derived.

3. There are other clauses which it is not now material to refer to. Two points were discussed in the Lower Court : (1) whether the premises are a

choultry within the meaning of the section, and (2) if so, whether it satisfies the condition which according to the respondent must be satisfied by all

the kinds of buildings and lands mentioned in the clause, namely, that no income shall be derived therefrom. The learned Judge has held that the

place is not a choultry within the meaning of the section. He has so held on a consideration of Ex. I, which is the deed by which the premises in

question were dedicated to charity in 1888 by the owner, Kothandarama Pillai, and his wife, Manonmani Ammal. The question is, whether that

dedication by its express language or by what necessarily follows from it constitutes the premises a choultry. The deed of settlement as it is called

(Ex. I) enumerates in paragraph 4 the purposes for which the charity is founded and the properties dedicated. It begins by saying that the said

building, the tank and the other appurtenances are to be known by the name of Tuesday Thannir Pandal Dwadasi Kattalai Dharma Matam. It goes

on to say that on Tuesday every week Paradesis that come should be given food. It continues: that every day from Thai to Avani each year kambu

grain should be cooked and the said food should be kept in mud pots and allowed to ferment and be mixed with salt and that all who come

between 7 A.M. and 6 P.M. without distinction of caste shall be given the food and the fermented water. The deed further says that on every

Dwadasi day, i.e., once a fortnight, Brahmins should be given food as funds permit. The tank is to be used by all castes among the Hindus except

the Pallas and Pariahs for bathing and drinking, and the flowers that are to be got by the maintenance of a flower garden and the leaves of the holy

Vilvam and Tholasi are to be used for worship by Brahmins, Saivas, etc. The paragraph winds up by saying that the above building and the

appurtenances have been built for these purposes. The question is whether the building and lands appurtenant thereto dedicated to charity of the

above description are a choultry within the meaning of that word in the District Municipalities Act. It would be observed that all the purposes

mentioned are the giving of food and drink freely. Paradesis, literally people of other places means those who have no fixed abode and go from

place to place having given up any lucrative occupation (it is to be presumed in search of a higher life) are to be fed every Tuesday. All who come

without distinction of caste are to be given kambu food and the fermented water of the food throughout the six months, Thai to Avani, and

Brahmins are to be fed on the Dwadasi day, i.e., once a fortnight. The essential idea running through the foundation is that of free gift of food and drink. The premises are intended for being used to carry out this purpose. The respondents' contention which the learned Judge accepted is that a place intended for free feeding however charitable it might be is not a choultry but a chatram. In Wilson's Glossary, page 108, it is stated that the word chavadi becomes choultry when corrupted and that choultry means a public lodging place, a shelter for travellers. In the same book at p. 104 the word "chatram" which is the vernacular corruption of the Sanskrit Sathram is explained as a place where refreshment is given gratuitously, especially to Brahmins. The same distinction between a resting place for travellers and a place where refreshment is given is also mentioned in Maclean's Manual where at p. 160 choultry is stated to be a corruption of the word chavadi and is explained as a hall used by travellers as a resting place and also intended as a place for the transaction of public business as in the expression village chavadi. And at p. 188 chatram is explained as a corruption of the Sanskrit Sathram and as a house where pilgrims and travelling members of the higher caste are entertained and fed gratuitously for a day or two and as charitable foundations for the lodging and entertainment of a certain number of guests for a specified time. This distinction between the two words is confirmed by popular use, although it is not uncommon when language is loosely used for the two words to be indiscriminately used to describe the same premises. The appellants' advocate has thus drawn my attention to Venkatachala Pillai v. The Taluk Board, Saidapet ILR (1911) 34 Mad. 375 : 21 M.L.J. 305 where at page 381 the institution then in question which was undoubtedly a feeding place is described as a choultry. But this is more or less inaccurate because unintentional use of the words cannot, I think, be used to control the interpretation of the section which must be read in the sense in which the words are accepted by appropriate authority. That being so, I am unable to say that the learned Judge's decision is not justified. There is no provision as far as I can see in the deed of foundation for any provision for a resting place for any one. It is natural that those who come to take their food may have to wait some time before it is given to them and afterwards may linger before they go away. But that will not convert the foundation into one intended as a shelter for travellers and in my opinion the trustees

would be justified in requiring that those who come to receive their food should not stay in the premises and take shelter there. It is noteworthy that

the whole feeding contemplated in the deed is to take place during the day-time. Dwadasi feeding of Brahmins is always in the morning. The poor

feeding is expressly required to be over by 6 P.M. and at night the building is to be kept lit but not for the reception of any travellers. This being so,

the only conclusion I can come to is that although the premises are undoubtedly a charity they do not fall within the category of charities which are

exempted by the District Municipalities Act, viz., choultries. It may be that in particular cases the same place is intended to be used both as a

choultry and as a chatram. Where such is the case, such premises would undoubtedly to the extent to which they are choultries come within the

exception to Section 83(a). But that is not the case here. I think the decision on this point of the learned Judge was right.

4. In this view the contention of the respondent whether even if the place is a choultry it should not also satisfy the condition of no income being

derived therefrom does not arise. As the matter has been argued however I may indicate my view that as I read Clause (a) of Section 83 the only

places which require that no income should be derived therefrom in order to be entitled to exemption are the last mentioned of series, namely,

playgrounds which are open to the public and from which no income is derived. On this point I have been referred to a decision of Madhavan

Nair, J. in *The Municipal Council, Trichinopoly v. Venkatarama Iyer* ILR (1930) 54 Mad. 495 : 60 M.L.J. 456 in which the learned Judge took a

slightly different view and held that the requirement of no income being derived is applicable to libraries also the immediately preceding word. I

think that on a proper reading of the clause the words which go together are "buildings used for educational purposes and libraries," i.e., buildings

used for educational purposes, buildings used for libraries. These occur before playgrounds and are separated therefrom by the word "and" which

shows that the qualifying clause of playgrounds is not to be taken over and attached to the previous places but only to playgrounds. This reading

explains and gives effect to all the words of the clause including the "and" before libraries and the "and" after it.

5. The appeal fails and is dismissed with costs.