

(1980) 09 MAD CK 0040
In the Madras High Court
Case No : S.A. No. 1019 of 1977

Madurai Municipal Corporation

APPELLANT

Vs

T.R. Narasimhachari

RESPONDENT

Date of Decision : 11-09-1980

Acts Referred:

Tamil Nadu District Municipalities Act, 1920 — Section 310(2)

Citation : (1980) 09 MAD CK 0040

Hon'ble Judges : V. Ramaswami, J

Bench : Single Bench

Advocate : C. Chinnaswamy, M. Shakir Ali and P. Chandrasekaran, for the Appellant;

Final Decision : Dismissed

Judgement

V. Ramaswami, J.—The plaintiff is the owner of the house bearing door No. 154 in Ward No. 37 in South Masi St. Madurai. He was given a domestic water service connection with municipal water tap for one tap, He was collecting the water coming through this approved tap in a small cement tub according to the plaintiff, and probably it was in the nature of a small sump. From that cement tub, he was lifting the water to an overhead tank in his house and from there he had given connections to the bath rooms inside the house and for wash basins. Such connections to the bath rooms and wash basins are stated as seven in number. The authorities of the appellant Municipal Corporation seem to have inspected the premises and taking the view that the taps connected to the overhead tank should be treated as additional tap connections, they sought to levy at the rate of Rs. 12-50 for the first three taps and at the rate of Rs. 12-50 for every additional tap per menses and on that basis they issued a demand for Rs. 2,640 for the period from 1st August, 1970 to 31st March, 1973 with a threat that in default of payment, the domestic water service connection would be disconnected. The plaintiff filed the suit for a declaration that the demand was illegal and for an injunction restraining the defendant-Municipal Corporation from

enforcing the said demand or threat and cutting the tap connection. The defendants relied on by-laws 7(a) and 7(b) of the Water Supply By-laws made under S. 310 (2) of the Madras District Municipalities Act, 1920, which was by reason of the adoption of the relevant by-laws now applicable after it has become a Municipal Corporation in support of their contention that the plaintiff was liable to pay the demand as per the total number of taps installed inside his house. Both the Courts below have found that the plaintiff had not been drawing water from the approved tap connection by motor or hand-driven pump that he was collecting water coming from the service connection in a cement tub, that from there he was lifting water to the overhead tank for supply to his bath rooms, that such internal water system having no connection with the approved tap could not be called additional taps contemplated in the water supply by-laws of the Corporation and that, therefore, no additional rate was called for. All the same, the lower appellate Court held that if by-laws 7(a) and 7(b) had been in any way violated, It was open to the Municipal Corporation to take such action as they might be advised but they could not levy any additional tax on the ground that plaintiff was having more taps than one in his premises.

2. I think, plainly, the learned Subordinate Judge was right in this conclusion. Whatever may be the construction that the learned counsel may give, based on bylaw 7, he cannot contend that the internal connections made by the plaintiff can be called additional taps provided by the Municipal Corporation, as contemplated by under the by-laws. The second appeal, therefore, fails and it is dismissed. But there will be no order as to costs.