

(1951) 09 MAD CK 0010

In the Madras High Court

Case No : Civil Revision Petition No. 1566 of 1949

Municipal Council

APPELLANT

Vs

Ripley and Co. Ltd.

RESPONDENT

Date of Decision : 14-09-1951

Acts Referred:

Tamil Nadu District Municipalities Act, 1920 — Section 244

Citation : AIR 1954 Mad 95 : (1951) 2 MLJ 657

Hon'ble Judges : Basheer Ahmed Sayeed, J

Bench : Single Bench

Advocate : G. Balaparameswari Rao, for the Appellant; King and Partridge, for the Respondent

Final Decision : Allowed

Judgement

Basheer Ahmed Sayeed, J.—The petitioner was entitled to a licence fee in the sum of Rs. 81 and odd from the respondent which is

collected from him under protest. The respondent filed a suit claiming "refund of the said amount, and the learned District Munsif ordered the

refund. The municipality which was ordered to refund the amount collected by it by way of licence fee from the respondent for having stored jute

without licence in the vicinity of the minor port of Bimlipatam is the petitioner here.

2. The learned District Munsif has misconstrued the scope of Section 244 of the District Municipalities Act, and has held that under that section the

municipality is not entitled to call upon the respondent to pay the licence fee. The section only gives exemption to the Government of India or to the

Provincial Government or to any Committee appointed under the Marketing of Commercial Crops Act for their own occupation of any land and

storing goods of their own which may be licensable. But this exemption does not extend to private parties. The object of that section is that the

Government of India or the Provincial Government or the Committee appointed under the Marketing of Commercial Crops Act is doing service on

behalf of the community as a whole in storing goods belonging to the Government or to the Committee, and by no stretch of imagination, can it be

said that a private trading concern which stores goods which are licensable for the purpose of storage should also be exempted. At that rate the

municipality cannot know where exactly it will stand, If the interpretation of the section, as put upon it by the learned District Munsif, is to be

accepted. I am of opinion that the section does not extend to private trading concerns at all. It is only a special section which exempts the

Government and other bodies mentioned therein from obtaining a licence for the purpose of storage of goods of the description contained in

schedule V of the Act. As such, the learned District Munsif is clearly wrong in having allowed a refund of the amount in favour of the respondent. I

think the decree of the learned District Munsif will have to be set aside, and it is hereby set aside.

3. This petition is therefore allowed, and the respondent will pay the costs of the petitioner throughout. Petition allowed.