

**(1953) 08 MAD CK 0010**

**In the Madras High Court**

**Case No :** Criminal Appeal No"s. 124 to 127 of 1952

Public Prosecutor

APPELLANT

Vs

Rajanga Chetti and Others

RESPONDENT

**Date of Decision :** 03-08-1953

**Acts Referred:**

Madras Local Boards Act, 1920 — Section 194

Tamil Nadu District Municipalities Act, 1920 — Section 250, 250(1)

**Citation :** AIR 1954 Mad 285 : (1953) 2 MLJ 499

**Hon'ble Judges :** Govinda Menon, J; Basheer Ahmed Sayeed, J

**Bench :** Division Bench

**Advocate :** R. Santanam, for the Appellant; R. Viswanatha Aiyar, for the Respondent

**Final Decision :** Dismissed

## Judgement

Govinda Menon, J.—These are appeals by the State u/s 417, Criminal P. C. against the acquittal of the respective respondents for an

offence u/s 250 read with Section 313, Madras District Municipalities Act by the First Class Bench Court of Cuddalore O. T. The question raised

in each one of them is identical and so all the cases can be dealt with together by one and the same judgment.

2. The Sanitary Inspector of the Cuddalore Municipality filed complaints against each of the respondents on the ground that each one of them had

installed and worked an oil engine of 5 H. P. in agricultural lands without obtaining a licence from the Municipality.

The defence was that u/s 250, Madras District Municipalities Act no licence was necessary, because the section does not apply to the installation

and working of oil engines in agricultural land. The Bench of Magistrates relied upon a judgment of our learned brother Panchapakesa Aiyar J. in -

- P. Venkatachala Udayan Vs. Executive Officer, Rasipuram Panchayat Board, , where, interpreting Section 194(1)(b), Madras Local Boards

Act, which is exactly in the same terms as Section 250(1)(b), District Municipalities Act, he held that no licence is necessary for installing an oil engine in a field-well for irrigation purposes.

Following this decision, the Bench of Magistrates held that there was no installation in any premises in the cases in question and therefore acquitted

all the accused. The State has preferred the above appeals, objecting to the acquittal of the various respondents.

3. When these appeals came up for hearing before Krishnaswami Nayudu J. the learned Public Prosecutor argued that even the installation of

machinery and oil engine in a paddy-field within the municipal limits would come within the meaning of the section. It was argued before the learned

Judge that the word ""premises"" includes land and everything appurtenant thereto and therefore when any machinery is installed on land, ie., on

"terra forma", there must be a licence as required under the Act.

The learned Judge was of opinion that the decision of panchapakesa Aiyar J. required reconsideration and therefore referred the matter to a

Bench.

4. Section 250(1)(a) and (1)(b), Madras District Municipalities Act are as follows:

250 (1). Every person intending

(a) to construct or establish any factory, workshop or work-place in which it is proposed to employ steam-power, water-power or other

mechanical power or electrical power, or

(b) to install in any premises any machinery or manufacturing plant driven by steam water or other power as aforesaid, not being machinery or

manufacturing plant exempted by rules, shall, before beginning such construction, establishment or installation, make an application in writing to the

Municipal Council for permission to undertake the intended work.

The subsequent portions of this section deal with the granting of permission and the fees to be charged for that purpose. u/s 313 (1)(a) of the Act,

any person who contravenes any provision of any of the sections or rules specified in the first column of Schedule 7 etc., shall be convicted and

punished. One of the sections referred to in the first column of Schedule 7 is

Section 250 and in describing the offence in col. (3) the expression used is ""unlawful erection of factory, workshop, etc.

5. For the purpose of comparison it is better to refer to similar provisions in Section 194, Madras Local Boards Act also. Clauses (a) & (b) to

Sub-section (1) of Section 194 read as follows:

Section 194 (1) Every person intending

(a) to construct or establish in any non-panchayat area any factory, workshop or work-place in which it is proposed to employ steam power,

water power or other mechanical power or electrical power, or

(b) to instal in any premises in a non-panchayat area any machinery or manufacturing plant driven by steam, water or other power as

aforesaid,.....

It will, therefore, be seen that the corresponding sections are "ad idem" and if the decision of Panchapakesa Aiyar J. is right, the acquittal of the

respondents cannot be questioned.

6. What Mr. Santanam appearing for the learned Public Prosecutor urges is that it is Section 250 (1) (b), Madras District Municipalities Act that

has been contravened in this case and in that clause the gravamen of the offence is the installation in any "premises" of any machinery or

manufacturing plant etc. It is not disputed in these cases that the 5 H. P. oil engine is a machinery and that the same has been installed. But the only

question is whether the installation in an open field where paddy is grown or where plantain are reared, would be installation in the premises.

Such being the case, the answer to the question depends upon the meaning of the word ""premises"" in the section. In the Chamber's Twentieth

century Dictionary at page 724 the meaning of the word ""premises"" is given as follows: ""Noun. Plural. A building and its adjuncts"". It need hardly

be said that in common parlance what is understood is the same thing. The same is the meaning given to that word in the Concise Oxford

Dictionary as well at page 904. But Mr. Santanam contends that the ordinary meaning given to that word should not be applied when it occurs in a

statute where it is used as a term of art and for that purpose he invites our attention to "Ramanatha Aiyar's Law Lexicon" at page 1004, where the

learned author says that ""premises"" includes land and everything appurtenant

thereto. But in the same page a little lower down after quoting --

"Beacon Life & Fire Assurance Co. v. Gibb", (1862) 1 Moo PC NS 73 (B), the learned author states that ""premises"" in popular language

frequently means ""buildings"".

The same is the meaning given to the term in -- "Bai Jamna v. Bai Jadav", 4 Bom 168 (C). In -- "Bristol W. W. Co. v. Uren", (1885) 54 L. J.

MC 97 (D), ""premises"" has been defined as including a pleasure garden occupied with a dwelling house. As we have already stated, one does not

use the word ""premises"" when referring to an expansive open space or an area unoccupied by buildings. To say that a meeting was held within the

premises of the Triplicate Beach or the premises of the sands of Palar river would jar on one's ears and would be factually incorrect.

We have to give to the word the ordinary interpretation and connotation given to it in the English language and when the dictionaries refer to the

word ""premises"" as building and its adjuncts, there is no reason why the Court should import a different meaning when such a word is used in a

statute simply because under certain conditions and circumstances the word ""premises"" includes land and everything appurtenant thereto.

7. At page 791 of Wharton's Law Lexicon, Edn. 14 the meaning given to the word ""premises"" is that it is often used as meaning land or houses.

The author next refers to the statutory meaning in particular statutes, for example, the Public Health Act, 1875, Section 4, where premises includes

messuages, buildings, lands, easements, tenements and hereditaments of any tenure. By the word ""messuages is understood a dwelling house and

offices with adjoining lands appropriate to the household or a mansion house and grounds. So the primary meaning of the word ""premises"" is not

open land under the sky, but something in the nature of a roofed construction with walls.

8. In note to Section 14, English Food and Druggs Act, 1938, ""premises"" has been defined as follows: (See Lumley on Public Health) Vol. 2; p.

1333, "" "premises" include messuages, buildings, land easements, and hereditaments of any tenure"".

At page 1448 of the same book, in dealing with Section 100 of the same Act, the same definition, viz, ""premises"" including messuages, buildings,

land, easements and hereditaments of any tenure, is given. The inclusive

definition of the term ""premises"" given in Ramanatha Aiyar's Law Lexicon should be understood as ""meaning that whenever there is a building or a messuage and some land or garden is appurtenant to that building or messuage, then such land should also be taken to be included within the ""premises"".

We cannot, therefore, agree with the contention of Mr. Santanam that when the District Municipalities Act, or the Madras Local Boards Act, uses

the word ""premises"" as such, any vacant or open land of whatever acreage it might be, would come within the meaning of the term ""premises"". If

we accept the contention put forward on behalf of the State, then it comes to this, that wherever, within the State, a person instate an oil engine or

a machinery, he should be compelled to take out a licence, for the entire State, except the City of Madras and some agency tracts, covered by the

District Municipalities Act and the Local Boards Act.

If the intention of the legislature were such then they need not have used the word ""premises"" in Clause (b) of Sub-section (1) of Section 250,

Madras District Municipalities Act or Section 194 (1), Local Boards Act. When we compare clauses (a) and (b), the meaning is made clear; for it

is seen that the word ""premises"" is significantly absent in Clause (a) which speaks about the construction or establishment of any factory, workshop

or work-place in which it is proposed to employ steam-power, water-power or other mechanical power or electrical power. Therefore, whenever

any person wants to establish a factory, workshop, or workplace, in which the abovementioned powers are to be employed then wherever its

location may be, there will be the necessity of getting a licence.

If the intention of the Legislature had been that the same should apply for the installation of any machinery or manufacturing plant, driven by steam

or water power, then Clause (b) becomes redundant in one sense. In another sense, it is unnecessary to use the word ""premises"" at all because the

clause would be self-contained if the word ""premises"" is omitted, in which case the clause would read thus:

To install any machinery of manufacturing plant driven by steam etc.

That would make it necessary for any person to apply for a licence if he wants to do any of the things mentioned therein.

It will be interesting to refer to Section 249 and Schedule 5, District

Municipalities Act also in this connection. The heading of the section is Industries and Factories"" and the marginal note speaks of ""purposes for which places may not be used without licence"". Schedule V which refers to Section 249 begins with the following words: ""Purposes for which "premises" may not be used without a licence u/s 249."" If we look at the purposes enumerated thereafter, it will be seen that all of them can be done only in buildings. Therefore when the word ""premises"" is used in Schedule 5, it should certainly be understood as a building, and one should not impute an intention to the legislature, unless it is plainly necessary, that the same word should be used with different meanings in different contexts and in different places in the same statute.

We are therefore of opinion that the decision of Panchapakesa Aiyar J. in P. Venkatachala Udayan Vs. Executive Officer, Rasipuram Panchayat Board, even though it is based on a concession made by the State Prosecutor, lays down the correct law and that the word ""premises"" when used either in the Madras District Municipalities Act or in the Madras Local Boards Act should be understood" as meaning a building with land adjacent thereto. A building is a necessary criterion for the application of the term. The acquittal of the respondents is therefore right and all these appeals are dismissed.