

(1890) 11 MAD CK 0009
In the Madras High Court

Purushottama

APPELLANT

Vs

Municipal Council of Bellary

RESPONDENT

Date of Decision : 17-11-1890

Acts Referred:

Madras District Municipalities Act, 1884 — Section 103(1)
Tamil Nadu Town and Country Planning Act, 1971 — Section 51

Citation : (1891) ILR (Mad) 467

Hon'ble Judges : Weir, J;Shephard, J

Bench : Division Bench

Judgement

1. Three questions have been raised in this appeal.
2. It was first contended that u/s 110 of Act IV of 1884 the power of distraint could only be exercised in respect of an arrear which had accrued due within one year. We are of opinion, however, that that section should not be read limiting the powers given by Section 103 but as giving a further power to distrain property on the premises after notice given to the occupier. u/s 103 it is the property of the defaulter only, that is, the person on whom notice has been served u/s 102, that can be distrained and sold.
3. The next contention had reference to the notice which an owner of property may give in order to entitle himself to remission of the house-tax. The tax is an annual one and the language of Section 51 of Act III of 1871 appears to us to show that an annual notice was intended.
4. The case stood over for the decision of a Division Bench (Chief Justice and weir, J.) on the question whether the Municipal authorities can legally distrain the doors of a house of a defaulter under the first portion of Clause (1) of Section 103 of the Madras District Municipalities Act IV

of 1884. The Division Bench have found this question in the negative [vide Queen-Empress v. Shaik Ibrahim ILR 13 Mad. 518]. We concur in the

conclusion and in the reasons for the conclusion in that case, and we must accordingly allow this appeal and reversing the decree of the District

Court, we restore the decree of the District Munsif's Court.

5. Appellant will receive his costs in this Court and in the lower Appellate Court.