
(1940) 08 MAD CK 0001
In the Madras High Court

Pyda Suryanarayanamurthi		APPELLANT
	Vs	
The Municipal Council		RESPONDENT

Date of Decision : 06-08-1940

Acts Referred:

Tamil Nadu District Municipalities Act, 1920 — Section 83

Citation : (1941) 54 LW 392 : (1941) 2 MLJ 338

Hon'ble Judges : Krishnaswami Aiyangar, J

Bench : Division Bench

Judgement

Krishnaswami Aiyangar, J.—This revision petition arises out of a suit instituted by the petitioner for the recovery of a sum of Rs. 569-12-0

of which Rs. 112-8-0 is claimed as the balance of rent due and the remaining sum of Rs. 451-4-0 as representing a sum of money wrongfully

appropriated by the respondent towards the property tax claimed to be due from the petitioner to the respondent. The respondent is the Municipal

Council, Cocanada. The petitioner's advocate did not contend that if the Municipal Council were entitled to recover the property tax from the

petitioner, the former could not adjust the arrears against the rents claimed by the petitioner. But what he contended was that no property tax at all

was leviable in respect of the house in suit.

2. The plaintiff purchased the suit house on the 23rd of March, 1933. A portion of the house was rented by the Municipal Council from the

previous owner and was--and is even now--being used for the purpose of accommodating a school run by the Municipal Council. The petitioner is

apparently in possession of the portion not let to the Municipality. Exemption from liability to property tax in respect of the suit house is claimed u/s

83 of the Madras District Municipalities Act V of 1920. The section says:

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. Mr. Somasundaram the learned advocate for the petitioner, contends that the suit house was a house used for educational purposes, at any rate,

partially and therefore must be held exempt from liability to tax on the wording of the section. According to him, it makes no difference whether the

house is used for educational purposes by the owner himself or by the Municipal Council which had taken a lease of the house. By whomsoever

the house was used, provided it was used for educational purposes, the house is exempt from liability to property tax. This was the contention.

4. Now, to allow the plaintiff to lease out the house, collect the full rent and still give him exemption from liability to property tax is to permit him to

enjoy a privilege which strikes me as entirely unwarranted and even senseless. To my mind, it is quite clear that this could not have been the

intention of the Legislature. Mr. Somasundaram is of course right when he says that if there is a lacuna in the statute, it is not the function of the

Court to remedy it. The Court has simply to ascertain the grammatical meaning of the expression used and give effect to it. But it does appear to

me that there is no such lacuna at all in the section. The word "used" necessarily connotes the further idea that the user was by some human agency.

Who else could be the human agency unless it be the owner of the property or the person primarily liable for the tax ? I am prepared to read the

word "used" in the sense "used by the person who is primarily liable for the tax" or in other words, the owner. The meaning suggested by the

petitioner's advocate would lead to a palpable absurdity and there is nothing in the section which compels me to adopt it.

5. There was another point to which reference was made, namely, the correctness of the opinion expressed by the Judge as to the suit being

barred in respect of the rent for May, 1933. There is no substance in this point either.

6. In the result, the revision petition is accordingly dismissed with costs.