
(1957) 09 MAD CK 0036
In the Madras High Court

R. Ramakrishna Iyer

APPELLANT

Vs

Municipal Council by Commissioner

RESPONDENT

Date of Decision : 06-09-1957

Acts Referred:

Citation : (1958) 71 LW 123 : (1958) 1 MLJ 348

Hon'ble Judges : Ramaswami, J

Bench : Division Bench

Judgement

Ramaswami, J.—The point involved in this Second Appeal, which arises from a suit for a declaration that the plaintiff is exempt from taking out any licence and paying any licence fees for the vegetarian light refreshment stall in Tirunelveli railway junction platform, is that where the premises of a stall are under the control and occupation of the Central Government, Sections 244 and 249 of the District Municipalities Act stand in the way of levy of any fee. In a recent decision of this Court in V.R. Alangavaram Chetty Vs. The Municipal Council of Pollachi and Another, it was held as follows:

The exemption granted by Section 244 of the District Municipalities Act from its licensing provisions in Section 249 is only in favour of the activities of the Government and of the statutory bodies named in that section. Running a tea-stall even though on a railway platform under licence from the railway authorities, requires a licence from the Municipality under the District Municipalities Act. Though the railway premises may be the property of the Union Government, still so long as it is in the territorial limits of a Municipality, the Municipality has jurisdiction to regulate and licence the trade carried thereon.

Even though the language of Section 244 of the Madras District Municipalities Act is different from the language of the analogous sections of the City Municipal Act and the Madras District Boards Act, still having regard to the legislative history of the licensing regulations and having regard to the need to avoid an interpretation which might lead to patent absurdity, the "exemption granted u/s 244 of the Act can only apply to activities carried on by the Government or the enumerated

statutory bodies and not to private individuals carrying on a trade requiring a licence, even though such trade might be carried on the premises or land owned by Government. It is the activity that is carried on that attracts the licensing provisions and regulation u/s 249. Public Prosecutor v. Alangaram Chettiar (1955) 2 M.L.J. 555 followed.

2. Therefore, there is no substance in this point and this appeal has got to be dismissed and is hereby dismissed, but in the circumstances without costs.