
(1987) 03 MAD CK 0048
In the Madras High Court

S. Muthiah

APPELLANT

Vs

Tirunelveli Municipal Council

RESPONDENT

Date of Decision : 23-03-1987

Acts Referred:

Tamil Nadu District Municipalities Act, 1920 — Section 89, 89(1)(a), 89(1)(b)

Citation : (1988) 1 LW 276 : (1988) 2 MLJ 384

Hon'ble Judges : Sengottuvelan, J

Bench : Single Bench

Judgement

Sengottuvelan, J.—The point of law that arises for determination in the second appeal is whether the obligation on the part of the owner of a building to give notice to the Municipal Council about the completion or occupation of the building u/s 89 of the Tamil Nadu Districts Municipalities Act, 1920 is a sine quo non to enable the owner to get the remission contemplated u/s 89.

2. The facts of the case are briefly as follows:-The appellant constructed the buildings bearing door Nos. 51/B, 51/C, 51/D, 51/E, 51/F, 51/G and 51/H on Salai Street, Sinthupunthurai, Tirunelveli Junction. According to the appellant, the constructions were completed in the month of April, 1975 and the buildings were not occupied before April, 1975 and hence, according to Section 89 of the Act, the building cannot be assessed to property tax for the half year ending 31.3.1975. The further case of the appellant is that since the Municipality did not serve any special notice on the plaintiff the assessment for the half year 30.9.1975 also is illegal.

3. Both the Courts below, on a consideration of the evidence let in the came to the conclusion that the buildings were completed on 25.2.1975. The finding of fact is not seriously disputed, u/s 89 of the Act, the owner of & building will have to give a notice of construction of a building within fifteen days from the date of the completion or occupation of the building whichever is earlier. Section 89(1) (b) states that if such a date falls within the last two month of that half year, the owner will be entitled to remission of the whole of the tax if such notice u/s 89(1)

(a) is given. The case of the Municipality, the respondent herein, is that though, according to Section 89, the appellant is entitled to remission of the whole of the tax for the half year ending 31.3.1975, in view of the fact that the completion of the building is on 25.2.1975, yet, in the present case, the appellant is not entitled to such remission since he had not given, a notice of construction as contemplated u/s 89(1)(a). Learned Counsel for the appellant relies upon a case reported in *Jayam Animal v. Municipal Council Kumbakonam* (1966) 1 M.L.J. 160 : 69 L.W. 114, where a single Judge of this Court held that a notice in writing need not be given and it is enough if information about the completion of the premises is conveyed to the Municipal Council and the receipt of such information itself will entitle the owner for remission u/s 89(1)(b) in respect of that half year. The Supreme Court also in the case in *Milkanth v. Kashinath* (1962) 1 M.L.J. 263 (S.C.) : (1962) 1 S.C.J. 588 has held that if the word "notice" alone occurs in any such context, it means not only a formal intimation, but also an informal one. The Legislature must be deemed to have in mind the fact that service of notice would include constructive or informal notice. In this case, both the Courts below came to the conclusion that the building was completed on 25.2.1975 based upon the report of the Building Inspector, Exhibit B.12. In view of the fact that such report of the Building Inspector amounts to a formal intimation to the Municipality about the completion of the building on 25.2.1975, and such intimation entails an exemption u/s 89(1)(b) of the Act, both the Courts below are in error in holding that the appellant is not entitled to remission of the tax for the half-year ending 31.3.1975 on account of non-service of notice u/s 89(1)(a) by the appellant.

4. In so far as the second half-year, namely the half year ending 30.9.1975, the case of the appellant is that the assessment is illegal or want of statutory notice under Schedule IV to the District Municipalities Act. Both the Courts below, on the basis of certain admissions made by P.W.1 came to the conclusion that notice had been served on the appellant. There are no grounds to interfere with the concurrent findings of fact on this aspect and the assessment for the half year ending 30.9.1975 is unassailable.

5. In the result, the second appeal is allowed in part and with reference to the assessment for the half-year ending 31.3.1975 amounting to Rs. 288.30, the same is set aside. In so far as the relief prayed for in respect of the assessment for the half-year ending 30.9.1975 it is negatived. There will be no costs.