(1905) 12 MAD CK 0019

In the Madras High Court

Th e Municipal Council of Cuddalore APPELLANT

Vs

Subrahmania Ayyar RESPONDENT

Date of Decision : 15-12-1905

Acts Referred:

Citation : (1906) ILR (Mad) 326

Hon'ble Judges : Subrahmania Ayyar, J

Bench : Single Bench

Judgement

Subrahmania Ayyar, J.—The question in this case is whether Mr. Subrahmania Ayyar, the Deputy Collector in charge of the Chidambaram

Division, South Arcot district, was liable to be assessed for professional tax for the half year ending the 30th September 1903 by the Municipality

of Cuddalore which is his head quarter station. That during such time as Mr. Subrahmania Ayyar stayed in Cuddalore during the half year, he was

holding the office of Deputy Collector, is indisputable. The only question is whether he so held office for the prescribed length of time. If he ""held

the office within limits of the said municipality for 60 (sixty) days reckoned consecutively or from time to time"" within the half year he was u/s 55 of

the District Municipalities Act liable to pay the tax. Now the term ''day'' is no doubt in on a sense understood to over the time from sunrise to

sunset. The more general meaning of the word is, however, from sunrise to sunrise (a natural day) or from midnight to midnight (a calendar day);

and the word ""days"" in the section referred to above must, in the absence of anything to the contrary in the context, be taken to mean a duration of

24 hours and not 12 hours. If this is correct, to charge the tax, the municipality had to show that Mr. Subrahmania Ayyar spent within its limits not

merely fractions of days sufficient when added up to constitute 1,440 hours but 60 entire and unbroken periods, in point of law, of 24 hours each.

In saying this I do not of course wish to be understood as suggesting that mere absence from the municipal limits on the part of Mr. Subrahmania

Ayyar for any part of particular day or even for a whole day will necessarily prevent that day being counted as one of the sixty. No hard and fast

rule can be laid down on such a question. It has to be remembered that fractions of a day are either omitted from calculation or are counted as

whole days according to circumstances (Lindley''s ''Jurisprudence,'' appendix page xiv citing Clayton v. Presenhim Part 5 Coke 1(a) and Reg. v.

St. Mary Warwick 1 E. & B. 816. The cause and character and the duration of the absence from the municipal limits of the office-holder on the

particular occasion are matters to be borne in mind in determining whether particular days are to be reckoned or omitted in cases like the present.

The decision must be given with reference to these considerations, a view on the whole reasonable being what has to be adopted. By way of

explanation two obvious illustrations may be given. Suppose the officer was away for an hour or two or even for a whole day for recreation or

other personal purposes that will clearly not reckon against the municipality and he would still be taken in point of law to have ""held office within

the limits"" for the day. On the other hand if he had been obliged to stay outside the municipal limits in the discharge of his official duties from, as it

has been proved in this case, morning till evening, his spending the night, within the limits would not warrant its being held that he held office at day

within the limits. Though it may be easy to suggest a case almost on the border line it is scarcely necessary to say that no practical difficulty can

occur in the application of the above view to cases arising under the enactment in question.

2. Upon the facts found by the District Munsif his decision is right. The petition is dismissed with costs.