
(1927) 11 MAD CK 0042
In the Madras High Court

The Chairman, Municipal Council

APPELLANT

Vs

D.R. Nageswara Iyer

RESPONDENT

Date of Decision : 10-11-1927

Acts Referred:

Citation : (1928) ILR (Mad) 870 : (1928) 28 LW 144 : (1928) 54 MLJ 642

Hon'ble Judges : Devadoss, J

Bench : Division Bench

Judgement

Devadoss, J.—This is an application to revise the Order of acquittal by the 2nd class Magistrate of Chingleput of the counter-petitioner in

the prosecution launched by the Conjeevaram Municipality under Sections 195 and 321 (7) of the District Municipalities Act. The Magistrate held

that the counter-petitioner was not bound to take out a license for the maintenance of a thatched pandal over his verandah. Mr. Narasimhachariar

for the Municipality contends that the license which was granted to the counter-petitioner expired on the 31st March, 1926, and he, not having

taken out a license for the year 1926-27, is liable under the Act to the penalty.

2. The question turns upon the construction of Section 195 of the District Municipalities Act, which is in the following terms:

No external roof, verandah, pandal or wall of a building shall be constructed or reconstructed of grass, leaves, mats or other inflammable materials

except with the permission of the Chairman.

In this case the thatched roof over the verandah was constructed with the permission of the Chairman. There is no question of its being

reconstructed now. The counter-petitioner was prosecuted for keeping the thatched roof without obtaining permission for keeping it during the

year 1926-27. When a person wants to put up roof, verandah or pandal or wall of a building of grass, leaves or mats or other inflammable materials

he has to obtain the permission of the Chairman and if he does not obtain permission of the Chairman he is liable to penalty u/s 313. But, after he

has once obtained permission to put up a structure of the kind mentioned in Section 195, is he bound to obtain a license from year to year? Section

195 does not speak of license. But reliance is placed upon Section 321 which clearly says:

when any license or permission is suspended or revoked" or when the period for which it was granted, or within which application for renewal

should be made, has expired, whichever expires later, the grantee shall for all purposes of this Act, or any rule or bye-law made under this Act be

deemed to be without a license or permission.

I do not think that this clause applies to permission granted u/s 195. As Mr. R. N. Aingar who appears for the counter-petitioner points out,

Section 195 is in the Chapter relating to buildings regulations, under which, a person who wants to put up a building has to get permission before

doing so ; the construction should be completed within the period allowed and, if he is not able to complete the building within the period allowed,

he must obtain further permission u/s 204. But in the case of a flimsy structure it does not take very long to put it up and after it is once completed

there is nothing in the Act which requires the owner of flimsy structure mentioned in Section 195 to take out a license for its continuance. In

construing a section like Section 195, the Court is not entitled to travel outside the clear wording of the section and to introduce into it the word "

continuance ". The contention of Mr. Narasimhachariar is that we must read into the section the word "continuance". There is no warrant for such

a contention in any relevant section of the Act. Apart from the permission which is required for the construction or reconstruction there does not

appear to be anything else left to be done by the owner of a building who puts up one of the things mentioned in Section 195. In this view of the

case, the judgment of the lower court is correct, and I dismiss the petition.