
(1946) 07 MAD CK 0001
In the Madras High Court

The Executive Officer, Panchayat Board	APPELLANT
Vs	
Bandapalli Ayodhyaramayya	RESPONDENT

Date of Decision : 30-07-1946

Acts Referred:

Madras Local Boards Act, 1884 — Section 193

Citation : (1946) 59 LW 647 : (1946) 2 MLJ 348

Hon'ble Judges : Yahya Ali, J

Bench : Division Bench

Judgement

Yahya Ali, J.—These three cases raise the question whether the burning of bricks by an "" occupier "" in a place belonging to an owner entails

on the owner the liability u/s 193 of the Madras Local Boards Act to apply for and obtain a licence, and whether in the absence of such application

by the owner, he is guilty of an offence u/s 207 read with Section 193 of that Act. It is admitted that the accused himself did not burn the bricks but

that D. W. 2 did so as an occupier. The learned Magistrate who tried the case acquitted the accused on two grounds. The first is that there is no

evidence that the accused himself burnt the bricks, and the second is that the burning of the bricks in this case was admittedly not in carrying out a

trade but was for the private purpose of the occupier D.W. 2. He pointed out that in schedule VIII the description of the offence u/s 193 is in the

words "" using a place for an offensive or dangerous trade without a licence."" There is no evidence on record to show that the burning of bricks in

these cases amounted to ""an offensive or dangerous trade."" It is not necessary to go into the second question. But with regard to the first, I am

disposed to agree with the contention advanced on behalf of the respondent that where there is no occupier the obligation to apply for and obtain a

licence u/s 193 of the Madras; Local Boards Act is on the owner, but where there is an occupier who was responsible for doing the Act or

process which required a licence, it was for him to make the application and in either case it is the particular delinquent that should be charged

under the provisions of Section 207 read with Section 193. It is significant that in Sub-section (2) of Section 193 it is mentioned that the "" owner or

occupier of every such place"" shall apply to the executive officer of the panchayat for a licence. It is not enacted that both the owner and the

occupier should do so. It is for the authority to make enquiries as to who actually used the place for any of the specified purposes and to proceed

against such person. Since in this case it is admitted that the accused did not use the place for burning bricks but that D.W. 2 did so, I am of

opinion that the Magistrate was right in acquitting the respondent in all these three cases.

2. The petitions are dismissed.