
(1941) 08 MAD CK 0001
In the Madras High Court

The President, Panchayat Board

APPELLANT

Vs

Bommala Kotayya and Others

RESPONDENT

Date of Decision : 19-08-1941

Acts Referred:

Citation : AIR 1942 Mad 270 : (1941) 2 MLJ 1034

Hon'ble Judges : Horwill, J

Bench : Division Bench

Judgement

Horwill, J.—Three revision petitions have been filed by the President of the Panchayat Board, Mangalagiri, against the order of acquittal of

the Sub-Magistrate of Mangalagiri of three persons alleged to have encroached upon the lands of the Panchayat Board.

2. In two out of the three cases, the accused admitted the encroachment, and yet the Magistrate refused to fine them. The reasons he gave for his

order were that the Panchayat Board had not proved that the encroachment was objectionable and that it was ""an instance of local influences and

factions playing a large part with the Local Boards."" The learned Magistrate has entirely misconceived the scope of the sections of the Madras

Local Boards Act relating to encroachments. The application of Section 159, which empowers the president of the Local Board to require the

owner or occupier of any premises to remove an encroachment, does not depend upon the extent to which such encroachment is objectionable.

The president has a right to have the encroachment removed; and if the person who encroaches upon the land of the panchayat refuses to obey the

president's order, he makes himself liable to a fine by a criminal Court. The learned Magistrate should therefore have taken action u/s 207 (1) and

punished the offenders.

3. The fact that the president of the Board and the person making the encroachment are of opposite factions in the panchayat, even if true, is

irrelevant. The powers of the president are none the less because he dislikes the person making the encroachment.

4. The proper course for the Panchayat Board to have adopted was to have moved the District Magistrate to prefer a Crown appeal. This Court,

except under very special circumstances, does not interfere in revision with an order of acquittal. I understand that the Panchayat Board will be

satisfied if the order of this Court makes it clear that a person making an encroachment is liable to punishment whether he belongs to the faction

opposed to the president or not and whether the Court thinks the encroachment objectionable or otherwise.

5. The revision petitions are dismissed.