
(1930) 01 MAD CK 0001
In the Madras High Court

The Public Prosecutor

APPELLANT

Vs

Murugiah Pandaram and Another

RESPONDENT

Date of Decision : 21-01-1930

Acts Referred:

Citation : (1930) 31 LW 754 : (1930) 58 MLJ 622

Hon'ble Judges : Krishnan Pandalai, J

Bench : Division Bench

Judgement

Krishnan Pandalai, J.—This is an appeal by the Public Prosecutor against the order, dated 29th August, 1929, of the Bench Magistrates of

Tiruvarur acquitting the respondents respectively the occupier and owner of premises within the Municipality of Tiruvarur, who were charged at the

instance of the Municipality with having disobeyed a notice u/s 182(1) of the District Municipalities Act to remove certain alleged encroachments in

front of the said premises. The Bench without going into the merits of the charge acquitted the respondents upon the ground that u/s 182 (1) of the

District Municipalities Act notice to remove obstruction or encroachment can only be given to either the occupier or the owner but not to both. The

Bench further held that the Municipality not having elected to proceed against the one or the other but having proceeded against both, the

prosecution case failed. The only question in this appeal is whether this view is correct. In my view it is not. The only object of saying that the

Chairman may require the owner or the occupier to remove encroachment: is to enlarge the class of persons against whom notice may be sent and

not to restrict it. Either the owner may be proceeded against or the occupier or both. There is nothing in the use of the word "or" in that section

which restricts the Municipality to choosing one out of the two persons proceeded against. The order of acquittal of the Bench Magistrates is set aside and the case will go back to them for disposal according to law.