
(1908) 06 BOM CK 0012
In the Bombay High Court
Case No : Second Appeal No. 444 of 1907

The Surat City Municipality	Vs	APPELLANT
Tyabali Daudbhai		RESPONDENT

Date of Decision : 10-06-1908

Acts Referred:

Citation : (1908) 10 BOMLR 622

Hon'ble Judges : Basil Scott, C.J; Knight, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Basil Scott, C.J.—The plaintiff who is a house owner in Surat brought this suit against the Surat City Municipality praying for an injunction restraining the Municipality from cutting off the water supply which had been provided for him under certain rules in force in the year 1898.

2. The Municipality as defendants contend that under the rules which they have made in the year 1905, they are entitled to cut off the water connection with the plaintiff's house.

3. Now the plaintiff occupies a house which is inhabited by not more than three families, and the water connection with that house is provided by a pipe half an inch in diameter for which under Rule 7 of the Municipal Rules of 1905 the plaintiff is chargeable Re. 1 a month.

4. It is not suggested that the plaintiff has not paid the charge of Re. 1 a month for the water supplied to him, but it is said that he has allowed tenants in the house to use the water connection, and has therefore rendered himself liable to have his water supply cut off.

5. Both the lower Courts have decided in favour of the plaintiff, and we are also of opinion that the plaintiff is entitled to succeed. We think that under the rules so long as the plaintiff occupies a house not inhabited by more than three

families, he is entitled to the water supply which he has heretofore enjoyed; and we think that he has not rendered himself liable to have that water supply cut off under any of the rules that have been brought to our notice.

6. It is argued by Mr. Shah on behalf of the defendants that they are entitled to cut off the water supply under the provisions of Rule 4(f)(3) which says that-" If water is allowed to run to waste after the owner or occupier has been warned by a written notice issued by the Municipality not to allow it to be so wasted, the Municipality may at any time cut off the supply," and it is contended that the water is allowed to run to waste because it is being used by families of tenants who are not of the family of the plaintiff. This application of the words "" run to waste" depends upon the construction of the definition of "domestic purposes" which is contained in the 1st Rule. That definition says that " domestic purposes mean and include drinking, cooking, washing and other such legitimate household purposes of a family..." and we are asked by Mr. Shahto hold that "of a family" means "of one family only." We however think that the words " of a family " are really surplusage. The "domestic purposes," the subject of this definition, means nothing more or less than legitimate household purposes; and it this is the proper meaning of "domestic purposes" then the user for legitimate household purposes by more than one family in the house is not waste within the definition of "waste" in that Rule.

7. It is next argued by Mr. Shah that the plaintiff has been guilty of a breach of the conditions of Rule 4 in allowing other families than his own to use the water connection. But if the other families to whom Mr. Shah alludes are bona fide occupiers of the house then according to Rule 4(a) the plaintiff is entitled to permit them to use the water ; and there has, therefore, been no breach of the conditions which would entitle the Municipality under Rule 4(f)(5) to cut off the water supply. It is not contended by Mr. Shah that the tenants in the plaintiff's house are not bona fide occupiers.

8. We therefore are of opinion that the plaintiff is entitled to relief. We think that the relief should take the form of a de-clation and a modified injunction. We pass the following decree :-

9. This Court doth declare that the defendants are not entitled to cut off the water supply to the plaintiff's house and doth restrain the defendants from cutting off such supply. And this Court doth decree that the defendants do pay the costs of the plaintiff throughout and this decree shall be without prejudice to the future exercise by the defendants of any powers vested in them at any time by statute or rules thereunder or by contract.