

Emperor Vs. Eugene Miranda

Emperor Vs. Eugene Miranda

SooperKanoon Citation : sooperkanoon.com/327152

Court : Mumbai

Decided On : Jan-19-1938

Reported in : AIR1938Bom315; (1938)40BOMLR320; 175Ind.Cas.1001

Judge : John Beaumont, Kt., C.J. and ;Wassoodew, J.

Appeal No. : Criminal Application for Revision No. 390 of 1937

Appellant : Emperor

Respondent : Eugene Miranda

Judgement :

John Beaumont, Kt., C.J.

1. This is an application in revision asking us to revise the conviction of the applicant for an offence under Section 231 of the City of Bombay Municipal Act, 1888. The notice served upon the applicant by the Municipal Commissioner under Section 231 requires him within fifteen days to connect the unconnected waste water of the nahanies and wasting places to the municipal storm water drain on Lady Jamshedji Road after obtaining necessary permit of the owners of the drain in Sorab Mill Lane. In my opinion that is not a sufficient notice to comply with Section 231. That section provides that :

Where any premises are, in the opinion of the Commissioner, without sufficient means of effectual drainage and a municipal drain or some place legally set apart

for the discharge is situated at a distance not exceeding one hundred feet from some part of the said premises, the Commissioner may, by written notice, require the owner or occupier of the said premises to make a drain of such material, size and description and laid at such level (and according to such alignment) and with such fall and outlet as may appear to the Commissioner necessary, emptying into such municipal drain or place aforesaid.

It is not disputed that the conditions necessary to bring Section 231 into operation exist in this case, but the notice authorised by that section is one requiring the owner or occupier to make a drain of the character therein specified, that is to say, of such material, size and description, and so forth as may appear to the Commissioner necessary. Here all that the notice does is to require the owner or occupier to connect his drain with the municipal drain. It gives him no particulars at all as to the character of the drain which the Commissioner thinks necessary, and in my opinion that is not a notice complying with the section. We held in a recent case (*Emperor v. Trikamlal Keshavlal* (1937) 40 Bom. L.R. 314) that a similar construction should be adopted in relation to Section 129 of the Bombay Municipal Boroughs Act. On that ground I think that the application must succeed, and the conviction must be set aside. Fine to be refunded.

Wassoodew, J.

2. I agree.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com