

Emperor Vs. Ramchandra Bhaskar Mantri

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Court : Mumbai

Decided On : Jul-20-1910

Reported in : (1910)12BOMLR669

Judge : N.G. Chandavarkar, Kt. and ;Heaton, JJ.

Appeal No. : Criminal Application for Revision No. 175 of 1910

Appellant : Emperor

Respondent : Ramchandra Bhaskar Mantri

Judgement :

N.G. Chandavarkar, Kt., J.

1. The question of law before us arising on this rule is as to the meaning of the words ' owners of the several premises,' occurring in Section 305 of the City of Bombay Municipal Act (Bombay Act III of 1888).

2. The question arises under the following circumstances :-

One Zaoba parcelled out certain land belonging to him in plots for building purposes and gave each plot on lease for a fixed term (30 years). Each lessee erected on his plot a building at his own expense. The petitioner before us is one of those lessees. There is a private street adjoining the plots and it was with reference to it that the Municipal Commissioner of Bombay called upon the

lessees, the petitioner included, to level, metal, drain and light the said street on the ground that they were 'owners of the several premises fronting or adjoining' it within the meaning of Section 305 of the Act. They having refused to comply with the requisition, the Commissioner filed a complaint against them in the Presidency Magistrate's Court charging them under Section 471 of the Act with failure to comply with the requisition. The lessees contended that they were not 'owners of the several premises' and that it was their leter, the owner of the land, who was legally liable to perform the work required by the Commissioner under Section 305. The Chief Presidency Magistrate overruled that contention and convicted the lessees. Hence this rule.

3. The City of Bombay Municipal Act defines the word 'owner' but is silent as to the meaning to be attached to the word 'premises', though that word occurs frequently in the Act. And, as was pointed out by Ranade J. in *Municipality of Bombay v. Shapurji Dinsha* ILR (1895) 20 Bom. 617, the word is used in different senses, in 'different sections, in some meaning land, in some signifying buildings, and in others including both land and buildings. We must, therefore, see in what sense the word is used in Section 305 of the Act.

4. The popular acceptation of the word 'premises,' according to Sweet's Law Dictionary and Wharton's Law Lexicon, is that it includes land. The same definition is given in Johnson's Dictionary. But, although it is a primary rule of interpretation that a word having a popular meaning ought to be construed in that sense, one exception to that rule is that, unless there is something to the contrary in the context, words of known legal import are to be considered as having been used in their technical sense, where the law has attached that sense to them. *Ruckmaboye v. Lulloobhoy Mottichund* (1852) 5 M.I.A. 2 and *Trimbak Gangadhar Ranade v. Bhagwandas Mulchand* ILR (1898) 23 Bom. 348- The word 'premises' has a technical meaning in law. Its strict legal meaning is 'that which comes before', 'the premissa of the document or deed which includes that word': *Metropolitan Water Board v. Paine* [1907] 1 K.B. 285- As pointed out in this last decision, in *Shepherd's Touchstone* that is the only meaning given to the word.

5. Having regard to the canon of construction as to the legal meaning of a word and to the fact that the word we have to construe occurs in a Statute, I think that the word 'premises,' occurring in Section 305, must be presumed to have been used by the Legislature in its legal sense, as referring to the particular kind of property which forms the subject-matter of the group of immediately preceding sections of the Act. That group, consisting of Sections 302 to 307, is headed-'Provisions concerning private streets '. The whole group has reference to streets made for the use of buildings or building sites. The dominant idea running through the Sections 302 to 304, is that of buildings, either erected or projected. That is the kind of property dealt with in what has gone before Section 305; and, therefore, that is its 'praemissa '.

6. If that view is correct-and I think it is-it follows that the mere owner of the land, who has let it out under a building scheme for building purposes, is not the owner of the property, because the property contemplated by the section necessarily embraces buildings, whether erected or to be erected; and the legislature regards him, as the owner of the premises, who has the right to receive rent in respect of that property. The lessor in the case before us receives rent under his contract only for that land; he is not entitled to rent in respect of the buildings. Once he has started his building scheme and let out his land in plots, he drops out of sight, and his lessees step in as the owners of the buildings. The land as land becomes merged in them. If no building is erected on any plot, still the plot becomes, as part of the building scheme, a building plot. But it was contended that a more reasonable construction of the words 'owners of the several premises' in Section 305 was that it included both the lessor as owner of the land parcelled out for buildings, and his lessees as owners of the buildings; because the word 'premises' includes both land and buildings. Such a construction of the section ignores, what I have called, the dominant idea of building running through the group of sections of which Section 305 is a part.

7. For these reasons, the conviction, in my opinion, is right and this rule must be discharged.

Heaton, J.

8. I have no doubt in my own mind that the particular premises with which we are now dealing, comprise the existing building and the plot on which that building stands. The lessee, (in this case the applicant), is the person who receives the rent of those premises. The lessor takes the ground-rent which is something quite different from the rent of the premises. As the lessee takes the rent of the premises, he is the owner within the meaning of that word as used in Section 305; as will appear from the definition of the word 'owner' given in class. (m) of Section 3 of the Bombay City Municipal Act, III of 1888. As the lessee is the owner in this sense, I think, that the notice mentioned in Section 305 was correctly addressed to him, and that the Magistrate's order is right.

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