

In Re: Nadamuni Naidu

In Re: Nadamuni Naidu

SooperKanoon Citation : sooperkanoon.com/784888

Court : Chennai

Decided On : Oct-17-1919

Reported in : (1920)38MLJ84

Appellant : In Re: Nadamuni Naidu

Judgement :

ORDER

1. The question in this case is whether a person who has obtained a license for storing timber is not bound to take the permission of the Municipality for putting up a shed over it.

2. There was a license given for selling or storing timber to the petitioner. Apparently in the year 1908, he applied to Mr. Lloyd, the then President of the Municipality, for a license to erect a shed in the timber yard. Mr. Lloyd said in Ex. I 'the undersigned will not insist on the pandal license fees being paid on the sheds used in their depots, as the license granted under Section 325 Act III of 1904 for using a place for the storage of timber covers in the opinion of the undersigned sheds necessary for the protection of timber so stored. " Apparently Mr. Lloyd was under the impression that if there was a license for the storage of timber, that would cover the shed erected over it.

3. It was contended by the learned Vakil for the petitioner in this Court that the putting up of the shed is only necessary to carrying on the trade of a timber merchant. We are unable to agree with this contention. It is clear that the

legislature has provided two distinct licenses in respect of the different matters. Section 325 refers to timber dep6ts and Section 262 to the erection of sheds with inflammable materials. Therefore in our opinion the President was mistaken in thinking that the license under Section 325 covered the permission required under Section 262; this is in accordance with the view taken by a Bench of this Court in *Corporation of Madras v. Varadachariar* I.L.R (1918) Mad. 7.

4. It was next argued by the learned Vakil for the appellant that Mr. Lloyd's letter must be taken at least as a permission for erecting a shed. The obvious answer to this argument is that suggested by the learned Grown Prosecutor. If permission is to be granted under Section 325 of the City Municipal Act the period during which the permission is to be availed of must be mentioned and boundaries given. The letter of Mr. Lloyd does not purport to fix the period nor to give the boundaries over which the shed is to be erected. No Municipal President has the power to give authority for all time to come to erect sheds and that is the reason why the legislature has imposed a restriction upon him to specify the period. Therefore we cannot regard the letter written by Mr. Lloyd as permission to erect a shed. It follows that the prosecution was well advised and was right.

5. As regards the sentence, having regard to the letter of Mr. Lloyd, we do not think that the fine of Rs. 25 is justified in the circumstances. We reduce it to Rs. 5.