

A. Venkataramayyar Vs. A.S. Ayyasami Sastrigal and ors.

A. Venkataramayyar Vs. A.S. Ayyasami Sastrigal and ors.

SooperKanoon Citation : sooperkanoon.com/791102

Court : Chennai

Decided On : Sep-16-1942

Reported in : AIR1943Mad194; (1942)2MLJ676

Appellant : A. Venkataramayyar

Respondent : A.S. Ayyasami Sastrigal and ors.

Judgement :

Wadsworth, J.

1. This appeal raises a question of the interpretation of Proviso C to Section 3(2) of Madras Act IV of 1938. The appellant was the plaintiff in a suit on a mortgage and the only question now remaining is whether the respondents the mortgagors, have been rightly held entitled to the benefits of Act IV of 1938 as being agriculturists. That they have a saleable interest in agricultural lands is not denied, but it is contended that they are disqualified because as members of a joint family they are assessed to property or house-tax under the Madras District Municipalities Act, 1920, on property the aggregate annual rental value of which is more than Rs. 600. It appears that in the name of the 1st defendant there are two houses, the gross rental value of which was estimated by the municipality at Rs. 460 per annum and the net value at Rs. 423, after deducting 10 per cent. as laid down in Section 82 of the District Municipalities Act. In the name of the 2nd defendant, who is the brother of the 1st defendant, there is one house the gross

rental value of which has been estimated at Rs. 180 and the net value after making the 10 per cent. deduction at Rs. 164. Assuming that the defendants are to be disqualified, if at all, by the payment of property tax on properties in the name of any one of the coparceners, it will be seen that the properties owned by the family are taxed on a net annual rental value of Rs. 587 which is below the limit down in the Proviso C. But if the gross annual rental value is the criterion, the figure would be Rs. 640, which is above the limit. It is argued that the phrase used in Proviso C is "annual rental value", not 'annual value' and that the figure arrived at after making the deduction laid down in Section 82 of the Madras District Municipalities Act is the figure which is described in that Act as the 'annual value'. This figure of annual value is arrived at by a process of deduction from what is alleged to be the true rental value. The argument is that the Legislature has avoided the use of the phrase "annual value" advisedly and in the first explanation to this proviso which says that where the assessment is based on the annual rental value the annual rental value shall be deemed to be such value, the Legislature contemplated not the 'annual value' upon which the assessment is based under the District Municipalities Act, but that which would be regarded as the annual rental value apart from the special provisions of the Municipalities Act. Mr. Venkatarama Aiyar for the appellant has referred us to the English practice whereby the annual rental value in the rating statutes is the gross value whereas the rateable value is the value on which the tax is actually levied. It does not seem to us that the terminology used in the English rating statutes has very much bearing on the question which we have to decide, nor do we think that this question can be decided by over-emphasising the difference between the terminology in Proviso C and that used in the Madras District Municipalities Act; for it must be remembered that the disqualification in Proviso C applies to individuals who pay taxes on property, not merely under the Madras District Municipalities Act, but also under the City Municipal Act, the Cantonments Act, the Local Boards Act and under any law governing municipal or local bodies in any other province in British India or in any Indian State. The fact therefore that the phrase 'annual rental value' differs slightly from the phrase 'annual value' used in the two Municipal Acts cannot really decide the question. The proviso imposes a disqualification based on payment of taxes under a variety of statutes some of which were probably not

before the Legislature when they framed this clause. The phrase used therefore is necessarily a general phrase and we have to consider what is the effect of this phrase having regard to the definitions of it in the explanation.

2. When the explanation says that the annual rental value on which the assessment is based shall be deemed to be the annual rental value, surely the natural interpretation is to take the final figure of rental value on which the assessment is based as the annual rental value for the purposes of this proviso. It seems to be stretching the language of the explanation to treat as the annual rental value not the net figure on which the assessment is based but the gross figure which is used for the basis of an arithmetical process as a result of which the final figure on which the assessment is based is reached. It has also to be pointed out that under the proviso to Sub-section (2) of Section 82 of the Madras District Municipalities Act the annual value which is the subject of taxation may be estimated without any reference to rental value at all and in such circumstances it would be absurd to take the gross rent as the figure on which the tax is based.

3. Having regard to all these considerations, we are of opinion that the annual rental value in Proviso C is the net figure after making the statutory deduction and not the gross rental. The appeal therefore fails and is dismissed with costs.