

In Re: S. Devaraja Tharakan

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Court : Chennai

Decided On : Jan-05-1945

Reported in : AIR1945Mad460

Appellant : In Re: S. Devaraja Tharakan

Judgement :

ORDER

Happell, J.

1. The petitioner has been convicted of an offence under the Foodgrains Control Order and sentenced to pay a fine of Rs. 400. The grain in respect of which the offence was committed was also ordered to be confiscated. The conviction was based on the fact that the petitioner was in possession of 50 1/2 maunds of paddy. Rule 3(2) of the Food Grains Control Order provides that for the purpose of Clause 3(1) any person who stores food grains in quantities exceeding 50 maunds may, unless the contrary is proved, be deemed to store the grains for purposes of sale. The petitioner was therefore deemed to have stored 50 maunds of paddy for purposes of sale. The propriety of the conviction is not now canvassed, but it is argued that the order of confiscation should have been confined only to the paddy in possession of the petitioner in excess of 20 maunds for the reason that storage for sale is not an offence in itself but only storage for sale in wholesale quantities, 'storage for sale in wholesale quantities' meaning, as defined in Rule 2(e), quantities exceeding 20 maunds. This contention, it is argued, should be accepted

in view of the wording of Rule 81(4), Defence of India Rules, which provides that a Court trying a contravention of an order may direct that any property in respect of which the Court is satisfied that the order has been contravened shall be forfeited to His Majesty. The argument is based on a misconception. Once a person is found to be storing grain for sale in wholesale quantities, he is committing an offence in respect of the whole amount which he is storing and he cannot be heard to say that there is no offence committed in respect of the grain up to 20 maunds but only an offence of the amount in excess of the 20 maunds. The order of confiscation of the whole of the grain was therefore justified.

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