

Haji Dawood Haji Elias Vs The Municipal Commissioner for the City of Bombay

Court: Bombay High Court

Date of Decision: March 27, 1922

Acts Referred: Bombay Municipal Corporation Act, 1888 â€” Section 154(2)

Citation: (1922) 24 BOMLR 476 : 67 Ind. Cas. 426

Hon'ble Judges: Shah, J; Norman Macleod, J

Bench: Division Bench

Judgement

Norman Macleod, C.J.

This is a reference by the Chief Judge Small Cause Court, in an appeal before him against an assessment under the

City of Bombay Municipal Act. The appellant is the owner of a building at the junction of Warden Road and Nepean See Road which is let out in

flats under registered leases. The building is fitted up with electric fittings and fang, bath tubs and lavatories; and the question referred to us is :

Whether in respect of buildings, situated as in this case, deduction in their rateable value should be allowed to the owner, for the reasonable cost of

bath tubs and lavatories and electric lights and fans?

2. The learned Judge has also added after the word "lavatories" the words ""with the necessary gas plant."" But we are not concerned with gas plant

in this case, and those words should be deleted from the Reference.

3. Now, there can be no doubt that the baths and the lavatories are annexed to the freehold and all electric fittings are also annexed to the freehold,

except perhaps such fittings as are attached to plugs in the wall. I should say myself that there can be no doubt as regards the baths and lavatories,

that the landlord is not entitled to deduction for the cost of these. Without these conveniences the premises would not be let, unless perhaps a

tenant were found to take the premises on a long lease on favourable terms on the understanding that he should put up such fittings himself. But

ordinarily speaking baths and lavatories must necessarily be put in before tenants can be expected to take the premises. Again, with regard to

electric fittings and fans, it may be that the landlord may not attach these conveniences to the premises, and may get tenants to take the premises on

the understanding that they should put the fittings themselves. But it is obvious that if the landlord puts in those fittings it will be easier to get tenants.

The only reason on which the appellant's claim for deduction can be based is that these fittings should be treated as machinery, which u/s 154(2)

of the City of Bombay Municipal Act shall not be included for rateable value of the building. But we have not been referred to any authority under

which it is said that electric fittings in a residence come within the term ""machinery"". It seems to me that when electric fittings are installed by a

landlord they become part of the premises and so are necessary for the user of the premises by the tenant.

4. Therefore, no deduction can be allowed for the cost of such installation.

5. We, therefore, answer the question in the negative. Costs taxed as on the Original Side to be costs in the case.

Shah, J.

6. I agree.