

APPELLATE CIVIL.

Before Mr. Justice Devadoss.

THE CANNANORE MUNICIPAL COUNCIL
(DEFENDANT), PETITIONER,

1927,
November 9.

v.

PUTHIYA VALAPPIL KUNIYIL ANANDAN
(PLAINTIFF), RESPONDENT.*

*Madras District Municipalities Act (V of 1920), Sch. V (g)—
Handlooms, worked by hand without steam or electric
power, whether machinery—Tax levied on buildings in which
handloom were being worked—Assessment of tax, whether
legal—Jurisdiction of Civil Court.*

Handlooms, which are worked without steam or electric power but only with the hand, cannot be called machinery within the meaning of Schedule V, clause (g) of the District Municipalities Act, 1920, and a building in which handlooms are worked cannot be assessed under that clause.

PETITION to revise the decree of the District Munsif of Cannanore in S.C.S. No. 1183 of 1925.

The material facts appear from the judgment.

N. Govindan for petitioner.

M. C. Sridharan for respondent.

JUDGMENT.

The only point in the Civil Revision Petition is whether handlooms are machinery within the meaning of Schedule V, clause (g) of the District Municipalities Act. The Municipality of Cannanore assessed the respondent in respect of two buildings belonging to him in which he had a number of looms. He paid the assessment and afterwards filed a suit in the District Munsif's Court for the recovery of the amount on the ground that it was

* Civil Revision Petition No. 542 of 1926.

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illegally levied from him. The District Munsif gave a decree to the plaintiff and the Municipality has preferred this Revision Petition.

The only question for consideration is whether handlooms are machinery within the meaning of clause (g) of Schedule V. The contention of Mr. Govindan for the petitioner is that it is machinery, or even if it is not to be treated as such the Municipality having *bona fide* assessed the respondent and having complied with all the formalities required by the Act, the respondent is not entitled to get back the amount paid by him. The question in this Case is not whether the Municipality has complied with the law, but whether it can levy an assessment in respect of handlooms which do not come within the meaning of clause (g). I do not think that handlooms which are worked without steam power or electric power but only with the hand can be called machinery within the meaning of clause (g). If the handloom is machinery then it might be contended with some show of reason that the charka and Singer's sewing machines are machinery. I do not think it was ever the intention of the legislature that small handlooms and industrial implements and tools should be assessed under the Act. Mr. Justice JACKSON in a recent case held that looms were not machinery. In the view I take of the word "machinery", I do not think the Municipality was justified in levying the assessment. The judgment of the lower Court is correct and the Civil Revision Petition is dismissed with costs.

K.R.
