

## FULL BENCH.

*Before Mr. Justice Broadway, Mr. Justice Harrison and Mr. Justice Moti Sagar.*

1923

*May 8;*

NOTIFIED AREA COMMITTEE, UNA (DEFENDANT)  
Petitioner,

*versus*

AMAR SINGH AND OTHERS (PLAINTIFFS) Respondents.

Civil Revision No. 489 of 1921.

*Punjab Municipal Act, III of 1911, sections 61 and 242—  
Taxes which the Local Government can impose in Notified Areas  
without the sanction of the Governor-General in Council.*

*Held*, that the powers conferred on the Local Government by section 242 of the Punjab Municipal Act, with regard to Notified Areas, are limited to the imposition of taxes described in section 61 (B) of the Punjab Municipal Act. The sanction of the Governor-General in Council is an indispensable preliminary condition for the imposition of taxes described in section 61 (A).

MADAN GOPAL, for the petitioner—I admit that the tax in question falls under section 61 (A) of the Punjab Municipal Act. This Act being a local Act must have received the assent of the Governor-General before it became law. Therefore no further sanction is required under section 242 for the imposition of a tax which falls under section 61 (A) of the Punjab Municipal Act.

JAGAN NATH, for the respondent—The counsel for the petitioner has confused “Governor-General in Council” with the “Governor-General.” Previous assent to the passing of an Act is given by the Governor-General” in his capacity as Viceroy, and such assent could not in any way amount to a sanction by the Governor-General in Council. Under section 242 of the Punjab Municipal Act, the Local Government can impose in a Notified Area the same taxes as a Municipal Committee can within the limits of a Municipality. A Municipal Committee cannot impose a tax falling under section 61 (A) without the previous sanction of the Governor-General in Council similarly the

Local Government cannot impose such a tax within a Notified Area without such sanction.

MADAN GOPAL, replied.

*Application for revision of the decree of Sayyad Shaukat Hussain, Munsif, with powers of a Judge, Small Cause Court, Una, District Hoshiarpur, dated the 12th March 1921, decreeing the claim.*

THE judgment of the Court was delivered by—

HARRISON J.—The question referred for decision is whether the Local Government has power under section 242 (1) (a) of the Punjab Municipal Act to impose in a notified area those taxes which a Municipal Committee can impose only with the previous sanction of the Governor-General in Council or whether its powers are restricted to the imposition of the taxes detailed in section 61 (B) of the Act, for which only the previous sanction of the Local Government is required. It is contended that inasmuch as section 242 is silent as to the question of sanction the Local Government must be understood to have taken upon itself the right reserved to the Governor-General in Council under section 61, that assent was given to the Act by the Governor-General and therefore the absence of a clause expressly substituting the Local Government for the Governor-General in Council is immaterial, that the words used must be strictly construed, and that if no preliminary sanction is prescribed none is required. It appears to me that there is no force whatever in this argument and that the confusion, if any, is due to the failure to realise that the procedure in introducing taxation in Municipalities falls under two distinct heads or rather is divided into two consecutive chapters. In the first place the sanction of the necessary authority has to be obtained and until this has been done, the Municipal Committee does not function as an authority imposing taxation. It doubtless has to correspond with the sanctioning authority and to observe certain necessary preliminaries with a view to obtaining the sanction. When and if the sanction is obtained, then, and not before, has a Municipal Committee any power to act under section 61. It then imposes the

1925

NOTIFIED AREA  
COMMITTEE, U

v.

AMAR SINGH

1923

NOTIFIED AREA  
COMMITTEE, UNA

AMAR SINGH.

tax. In notified areas this is done by the Local Government and not by any Committee, but the fact that the Local Government is so substituted for the Committee in no way alters the procedure. The material with which the imposing authority deals is the contemplated tax, as sanctioned, and the authorisation of the Local Government in section 242 to perform the functions of the Committee in this respect is clearly limited to the same field. It imposes what has been sanctioned. The fact that in a certain large class of taxes the Local Government is itself the sanctioning authority does not affect the position. It can of course at the same time sanction and impose a tax or it can even take for granted its own sanction, but the taxes, for the imposition of which the sanction of the Governor-General in Council is an indispensable preliminary condition, are still sacred, and, until and unless that sanction has been obtained, the Local Government is powerless. The answer, therefore, to the question is that the powers conferred by section 242 are limited to the imposition of taxes described in section 61 (B).

BROADWAY J.—I agree in the proposed answer to the reference.

MOTI SAGAR J.—I concur.

A. R.