

**Supreme Court of Canada**  
**Whyte Packing Co. v. Pringle, (1910) 42 S.C.R. 691**

**Date: 1910-03-04**

The Whyte Packing Company (*Defendants*) *Appellants*;

and

James Pringle (*Plaintiff*) *Respondent*.

1910: February 21, 25; 1910: March 4.

Present: Sir Charles Fitzpatrick C.J. and Girouard, Davies, Duff and Anglin JJ.

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO.

*Appeal—Special leave—Public interest—Important questions of law—Exemption from taxation—School rates—R.S.C. [1906] c. 139, s. 48.*

By a municipal by-law an industrial company was given exemption from taxation for a term of years. P., a ratepayer of the municipality, applied for a writ of mandamus to compel the council to assess the company for school rates, which, he claimed, were not included in the exemption. The decision to grant the writ was affirmed by the Court of Appeal (20 Ont. L.R. 246). On motion for special leave to appeal from the latter judgment.

*Held*, that the case was not one of public interest, and did not raise important questions of law. It did not, therefore, fall within the principles laid down in *Lake Erie & Detroit River Railway Co. v. Marsh* (35 Can. S.C.R. 197), for granting such leave.

MOTION for special leave to appeal from a judgment of the Court of Appeal for Ontario<sup>1</sup>, affirming the order of Mr. Justice MacMahon that a writ of mandamus issue to compel the City of Stratford to assess the appellant company for school rates.

The City of Stratford by a by-law of the city council exempted the appellant company from taxation for

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municipal purposes during a specified term of years. The plaintiff, Pringle, acting on behalf of all the ratepayers of the city, applied for a writ of mandamus to compel the council to assess the

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<sup>1</sup> 20 Ont. L.R. 246 *sub nom. Pringle v. City of Stratford*.

company for school rates and an order for the writ to issue was made by Mr. Justice MacMahon and confirmed by the Court of Appeal.

Two questions were raised in the case, and both decided against the company. First, whether or not the remedy by mandamus was open to the plaintiff. Secondly, whether or not the exemption from taxation covered school rates.

*Chrysler K.C. for the motion.*

*J. Travers Lewis K.C. contra.*

THE CHIEF JUSTICE.—This is an application for leave to appeal from the Court of Appeal for Ontario in two actions consolidated. In both, the relief claimed was for a mandamus ordering the corporation of Stratford to assess the present appellants for certain school taxes. The mandamus was granted by the trial judge, and affirmed by the Court of Appeal.

The motion is based upon an affidavit alleging that the amount indirectly involved is over \$1,000.

It would seem clear, and the application apparently is based upon the fact, that no appeal lies in the present case as of right, in view of the decisions of this court, more particularly, *Attorney-General for Ontario v. Scully*<sup>2</sup>. In that case, which was similar to this in that the judgment complained of dismissed an appeal from the judgment of the Chief Jus-

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tice of the King's Bench, who dismissed an application for a writ of mandamus, the court said:

There must be special reasons to support an application of this nature.

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<sup>2</sup> 33 Can. S.C.R. 16.

In the later case of the *Lake Erie & Detroit River Railway Co. v. Marsh*<sup>3</sup>, the court, after deliberation, determined that leave to appeal under this very sub-section should only be granted where the case involved matters of public interest or some important question of law.

In the present case, however important the judgment of the Court of Appeal may be to the parties to the action, it only affects the construction to be placed upon a particular by-law of the respondent municipality, and an agreement entered into between it and the appellant, and the matter is, therefore, not one at all within the rule laid down in the case above referred to.

The application must be dismissed with costs.

*Motion dismissed with costs.*

*Solicitors for the appellants: McPherson & Davidson.*

*Solicitors for the respondent: Makins & Gregory.*

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<sup>3</sup> 35 Can. S.C.R. 197.