
(1924) 10 MAD CK 0005
In the Madras High Court

Acharath Parakat Kunhi Pakki

APPELLANT

Vs

Mekkileri Karai Kavari and Another

RESPONDENT

Date of Decision : 29-10-1924

Acts Referred:

Citation : AIR 1925 Mad 1028

Hon'ble Judges : Venkatasubba Rao, J

Bench : Division Bench

Judgement

Venkatasubba Rao, J.—The first defendant obtained an assignment of certain lands from the jenmi to whom it belonged. The second

defendant has been a lessee under the jenmi. The plaintiff, under a contract with the second defendant, claimed the right to get the trees marked

and tap them. The first defendant filed a suit against the second defendant and applied for the issue of a temporary injunction restraining the second

defendant from getting the trees marked or from tapping them. The application was adjourned by the Judge to whom it was made to the 28th

March 1922. After the adjournment was made the first defendant petitioned the Abkari authorities to prevent the second defendant and the plaintiff

from dealing with the trees in question in the manner they claimed they had a right to deal with them. Sending the disposal of the application for the

issue of temporary injunction, the Abkari authorities made orders preventing the plaintiff from tapping the trees.

2. The plaintiff instituted the present suit claiming damages for the act of the Abkari authorities from the first defendant. The District Munsif who

tried the suit unfortunately treated it as one relating to procuring a breach of contract and his judgment is vitiated by this mistake. The judgment, as

it stands, cannot be supported. Clerk and Lindsell at p. 150 of their Book on Torts say : ""Where between the act of the defendant and the damage

complained of there intervenes, as one of the links in the chain of causes, the wrongful act or omission of a third party, the question whether the

damages are to be regarded as too remotely connected with the defendant's wrongdoing, seems to depend upon the following considerations.... If,

therefore, the defendant intends that, as the consequence of the act done by himself, the third party shall do the act which immediately causes the

damage, he will be liable."" With reference to the law, as stated in the passage quoted, let us see how the facts stand. Did the defendant intend that,

as a consequence of the act done by himself, the Abkari authorities should do the act which immediately caused the damage? In the first place, for

ascertaining the intention-of the defendant there must be something on the record to show that the statement he made to the Abkari authorities is

untrue. If, as a matter of fact, the defendant was really the owner of the trees, and the plaintiffs did not have a right to tap those trees, no intention

to cause damage to the plaintiff can be inferred. Unfortunately a finding on this essential matter has not been recorded by the District Muasif.

3. For a proper disposal of the case it would be necessary to call for a finding on the issues that arise with reference to the observations I have

made above but considering that this will involve not only a waste of time, but a large expense to the parties out of proportion to the petty amount

involved Mr. Kunhiraman, the learned Counsel for the respondent, very properly told me that, if I was against him, the best thing to do would be to

allow this civil revision petition and not to call for a finding from the lower appellate Court. Accepting that suggestion, I allow the civil revision

petition and set aside the decree, but in the circumstances I make no order as to costs.