

(1943) 03 MAD CK 0022
In the Madras High Court

Annakutty Moothan's sons Maniappa Moothan and Others	APPELLANT
Vs	
Ullattil Gopalan Nayar and Another	RESPONDENT

Date of Decision : 12-03-1943

Acts Referred:

Citation : AIR 1943 Mad 537 : (1943) 56 LW 348 : (1943) 1 MLJ 418

Hon'ble Judges : Somayya, J

Bench : Division Bench

Judgement

Somayya, J.—S.A. No. 1145 of 1941.--After hearing exhaustive and elaborate arguments on the meaning to be attached to the several

Malayalam expressions used in Ex. F-1 and other documents, I see no reason to differ from the conclusion arrived at by the learned District Judge.

The Subordinate Judge no doubt took a different view but having had the benefit of the full arguments and after consulting the dictionaries I have no hesitation in saying that the District Judge is right.

2. The sole question for decision is whether land of no paras of seed covered by Ex. F-1 was dry land converted into wet land within Section 5 of

the Malabar Tenancy Act. Wet land is, for the purposes of that Act, land which is adapted for the cultivation of paddy--see Section 3, Clause (x).

Dry land is defined by Section 3, Clause (d) as land which is neither a wet land nor a garden land. We are not concerned with " garden land " in this case.

3. u/s 5 of the Act in the case of a dry land converted into wet by the tenant's labour, the fair rent is less than what it is in cases of other wet lands

not falling within Section 5. The quantum of a fair rent determines the amount payable for a renewal. In this case the appellant who is a customary

verumpattamdar applied for "renewal" and was granted renewal. In fixing the sum payable by him, the question arose as to what was the fair rent

and that again depended upon the question whether certain area covered by Ex. F-1 was dry land converted into wet by the tenant's labour.

4. This area of no paras of seed area is admittedly part of a larger area of 220 paras of seed area. Under Ex. F-1 this extent of 220 paras of seed

area which is described as "Ubhayam" and some other land described in the same sentence as "paramba" were all leased. An extent of 110

paras of seed area is said to be on a higher level. The tenant is asked to bring that into good condition by digging it, i.e., by reducing the level.

5. The expression "paramba" is admittedly a dry land. The contrast in the same sentence is significant. The suit land is described as "Ubhayam"

and another land as "paramba." The meaning of the expressions used in connection with what the tenant is asked to do regarding this land is the

subject of acute difference between the learned advocates who appeared before me. But the chief question as one of the learned advocates for the

appellants put before me is whether the disputed area was at the time of Ex. F-1 adapted for the cultivation of paddy. The expression "Ubhaya

Pattom" is defined in Mr. Sundara Ayyar's Malabar Law and in Moore's Malabar Law as meaning "rent payable on rice fields." "Pattom" is

rent. Both the learned authors use the word "Ubhayam" as a "rice field." That means that the field was adapted for paddy cultivation. The

meaning to be attached to "Ubhaya Pattom" is not disputed by the learned advocates for the appellants; but they urge that the word "Ubhayam"

by itself does not mean a rice or paddy field.

6. It may be that the etymological meaning of the expression "Ubhayam" or "Nilarn" which is also used for the suit land in Ex. F-1 is merely "

land." But what is the meaning in which they are used in agricultural leases? The dictionaries give both the meanings but the question is how they

are used in leases and other transactions dealing with land. After giving the matter my careful consideration, I think we ought to be guided by what

has been said by Mr. Sundara Ayyar and Mr. Moore in their works on Malabar Law.

7. In the result, I agree with the lower appellate Court and dismiss the second appeal with costs.

8. S.A. No. 1144 of 1941--In this case the question is only one of costs. I do not

see any reason to interfere with the discretion exercised by the lower appellate Court. This second appeal is also dismissed; no costs in this Court.

9. No leave.