

(1993) 01 MAD CK 0038
In the Madras High Court

Arappa Gounder		APPELLANT
	Vs	
Chithan and Others		RESPONDENT

Date of Decision : 08-01-1993

Acts Referred:

Citation : (1993) 2 LW 126 : (1994) 1 MLJ 34

Hon'ble Judges : Thangamani, J

Bench : Division Bench

Judgement

Thangamani, J.—One Arappa Gounder, the appellant in both the second appeals and the petitioner in W.P. No. 4896 of 1983 is the

plaintiff in O.S. No. 484 of 1971 and O.S. No. 108 of 1975 on the file of learned Subordinate Judge of Erode. While the subject matter of

dispute in the earlier suit is the southern A.C. 3.02 1/2 in S.F. No. 268 and the southern A.C. 6 12 1/2 in S.F. No. 269, the disputed property in

the next action is an extent of A.C. 3.04 1/2 in the northern most part of S.F. Nos. 268 and 269 of Sankarapalayam village, Bhavani Taluk. The

entire extent which is stated to be of A.C. 12.19 1/2 originally belonged to four brothers viz. Maran, Raman, Lakshmanan and Chinna Maran who

are the sons of one Kuppan. There was no partition of this property among the brothers but each one was enjoying a specific portion for the sake

of convenience. Kuppan died in the year 1963. On the basis of a promissory note executed by him, one Thandavan filed O.S. No. 114 of 1966

on the file of learned Subordinate Judge, Erode and obtained a decree on 15.4.1967 against the three sons Maran, Raman and Chinna Maran and

the legal representatives of the last son Lakshmanan, who was dead by then. In execution of the said decree, Thandavan attached the entire

properties in E.P. No. 7 of 1968 and brought them for sale in court auction. The second respondent in S.A. No. 880 of 1981, the sole respondent

in S.A. No. 881 of 1981 and first respondent in W.P. No. 4896 of 1983 Jayakrishnan purchased them in court auction held on 22.1.1970. The sale was confirmed on 21.3.1970.

2. In the meanwhile, on 9.6.1967 Raman executed Ex. A-9 sale deed in favour of Chithan, the first respondent in S.A. No. 880 of 1981 in respect

of his one-fourth share in the suit items. The appellant Arappa Gounder claims that he is in enjoyment of this one-fourth share of Chithan as his

lessee. He further alleges that on 14.4.1967, he took on lease for one year the other three shares of Maran, Lakshmanan and Chinnamaraman under

Ex. A-1 unregistered lease¹ deed. He continues to be in possession of the property as a cultivating tenant by renewing the lease every year. Exs.

A-2, A-3, and A-26 are the subsequent unregistered lease deeds dated 14.4.1968, 14.4.1969 and 14.9.1970 respectively. The appellant adds

that he has been recorded as a tenant of the entire suit properties under Tamil Nadu Agricultural Lands (Records of Tenancy Regulations) Act,

1969. Alleging that his enjoyment of the properties was sought to be disturbed by respondents 1 and 2 the appellant instituted the two suits for a

declaration that he is a cultivating tenant with a right to be in possession of the suit properties and for consequential permanent injunction restraining

the respondents from interfering with his peaceful enjoyment of the lands so long as he continued as a cultivating tenant. In the alternative, he

claimed for recovery of possession also.

3. The respondent/auction purchaser resisted the actions contending that the appellant never took the suit properties on lease either from the first

respondent Chithan the vendee under Ex. A-9 or from the descendants of Kuppan. The vendee Chithan is colluding with the appellant. This

respondent did not receive any notice from the Tenancy Record Officer and the orders passed under the Record of Tenancy Rights Act are not

binding on him. The suits have been engineered only for the purpose of defeating the genuine rights of the court auction purchaser. After purchase,

he obtained symbolical possession in respect of the undivided half share in S.F. No. 268 on 26.9.1970 as evidenced by Ex. B-1 the possession

receipt. He took actual possession of the remaining extent of A.C. 8.17 through

court as per Ex. B-2 on 1.10.1971 in E.A. No. 798 of 1971.

Thereafter the appellant filed E.A. No. 881 of 1971 on 23.10.1971 praying the court not to record delivery stating that he was in possession of the

properties as a lessee. On 9.11.1975 this E.A. was dismissed and delivery was recorded without prejudice to the suit. While Ex. A-32 is the

certified copy of the counter of the respondent, Ex. A-33 is the certified copy of the fair order in E.A. No. 881 of 1971.

4. While the property involved in O.S. No. 484 of 1971 represents the three-fourth shares of Maran, Chinnamaran and Lakshmanan, that covered

by O.S. No. 108 of 1975 is the one-fourth share of Raman. Holding that the lease in favour of the appellant on the strength of Exs. A-1, A-2, A-3

and A-26 has not been established, that these lease deeds have been created by the appellant solely for the purpose of claiming tenancy right over

the suit properties after coming to know of the court auction purchase by the second respondent Jayakrishnan and that there is practically no

evidence to prove the lease in respect of the remaining one-fourth share of Raman on 22.11.1977 the trial court dismissed both the suits with cost

of the second respondent. It also held that Ex. A-11 the certified copy of Record of Tenancy Rights Register in which the appellant is shown as a

cultivating tenant in respect of S.F. Nos. 269 and 268 also cannot come to his rescue since by the time the appellant came to be recorded as a

tenant in respect of the suit lands, the ownership had changed hands consequent to the court auction sale in favour of the second respondent. The

defeated plaintiff took up the matter on appeal in A.S. Nos. 81 and 82 of 1978 on the file of learned District Judge of Coimbatore East at Erode.

The lower appellate court concerned with the finding of the trial Judge that Exs. A-1 to A-3 and A-26 lease deeds were got up for the occasion

and Raman could not have conferred valid title under Ex. A-9 sale deed to first respondent Chithan since it was brought into existence purposely

to steal a march over the execution proceedings already commenced in O.S. No. 114 of 1966 and the appellant is bound by the delivery of

possession recorded by the court as per Ex. B-1 and Ex. B-2. Since proceedings before the Record of Tenancy Authorities were pending by that

time, the status of the appellant as a cultivating tenant in possession could not be upheld. Accordingly it dismissed both the appeals on 23.6.1979.

Hence these Second Appeals came to be filed on 30.1.1980.

5. In the meantime, the second respondent/auction purchaser filed an application in Form No. 5 u/s 7(2) of Tamil Nadu Agricultural Lands

(Record of Tenancy Regulations) Act, 1969 before the Tahsildar, Bhavani in T.R. No. 56 of 1976 for the deletion of the name of the appellant

from the record of Tenancy Rights Register in respect of the suit properties in Sankarapalayam village. He pleaded before the Revenue Authorities

that he purchased the entire extent in court auction on 22.1.1970, and the sale was duly confirmed on 21.3.1970. By virtue of the said purchase,

he has become the absolute owner of the property. The landlords in the Tenancy Records Register have been described as Kuppan and Chithan

but the said persons were not the owners on the date of preparation of the Tenancy Record. Besides, he did not receive any notice about the

preparation of the Record of Tenancy; The Karnam of the village appears to have colluded with the petitioner and arranged to get the name of the

appellant recorded as a tenant.

6. The present appellant resisted the said application contending that his name was recorded as a tenant only after due enquiry in accordance with

the law and that the final Record of Tenancy Rights has also been published long ago. There was no provision in the Act to delete the name of the

tenant from the Record of Tenancy Rights and as such the petition was not maintainable. He claimed that he was presently cultivating the one-

fourth share of Raman ever since the date of Ex. A-9 which came into existence long ago prior to the court auction sale. He took the remaining

three-fourth shares of property on lease from the other three sons on 14.6.1967. The Record Officer Tahsildar Bhavani dismissed the petition on

25.2.1980 holding that the present appellant alone was in actual possession of the property as a cultivating tenant for 12 years prior to that petition.

Aggrieved by the said order, the second respondent filed an appeal before the R.D.O., Gobichettipalayam in A.P. No. 2 of 1980. On 28.9.1981

the R.D.O. allowed the appeal and deleted the name of the present appellant from the Approved Record of Tenancy. Thereupon, the appellant

preferred a revision before the D.R.O., Erode in R.P. No. 8 of 1982. But he could not succeed there also. The Revision was dismissed on

7.7.1982. So the tenant has come forward with W.P. No. 4996 of 1983 under

Article 226 of the Constitution of India for the issue of writ of certiorari calling for the records in T.R. No. 56 of 1976 on the file of the Tahsildar, Bhavani and quash the order made in A.P. No. 3 of 1950 dated 28.9.1981 on the file of the R.D.O., Gobichettipalayam which was confirmed in R.P. No. 8 of 1982 dated 7.7.1982 on the file of the court of District Revenue Officer. Jayakrishnan the second respondent in the S.A. No. 880 of 1981, the Record Officer and Tahsildar Bhavani, R.D.O. Gobichettipalayam and D.R.O. Erode have been impleaded as respondents 1 to 4 in the writ petition filed by Arappa Gounder, the appellant in both the second appeals.

7. At the outset, let us consider the various contentions raised by both parties in the writ petition. In T.R. No. 56/76 when the second respondent herein sought to delete the name of the appellant Arappa Gounder who was shown as a tenant in respect of the suit properties in the Record of Tenancy Rights Register, the Record Officer rejected his evidence as P.W. 1 that the appellant trespassed into the properties 20 days after the former took possession through court pursuant to his Court auction purchase on the ground of the admission of P.W. 1 in cross-examination that the appellant was in possession till that date and that the second respondent did not take any steps to evict the appellant from the property by giving police complaint for the alleged trespass. The Record Officer also relied on Exs. A-1 and A-2 the unregistered lease deeds in holding that the appellant was a tenant of the property. The plea of the second respondent that he did not know anything about the recording of the tenancy rights did not find favour with the Record Officer since in his view wide publicity was made about the implementation of the Tamil Nadu Agricultural Lands (Record of Tenancy Rights) Act, 1969 and reasonable particulars were given to the interested persons to put forth their rights in the lands. When the order of the Record Officer came to be pronounced on 25.2.1980, the District Judge had already dismissed A.S. Nos. 81 and 82 of 1978 preferred against the judgment and O.S. No. 484 of 1971 and O.S. No. 108 of 1975 on the file of the Subordinate Judge at Erode. The plea of the present appellant that he was a cultivating tenant in possession of the properties was negatived by the civil courts in the abovesaid proceedings. The Record Officer held that the judgment of the civil

court in favour of the second respondent was not binding on him and accordingly he refused to drop the name of the present appellant as tenant in respect of the suit items from the Record of Tenancy Rights Register.

8. The second respondent preferred an appeal before the Revenue Divisional Officer, Gobichettipalayam in A.P. No. 2 of 1980 u/s 6 of Tamil

Nadu Agricultural Lands (Record of Tenancy Rights) Act, 1969 against the order of the Record Officer and the Tahsildar. It was contended

before the appellate authority by the present second respondent that as per the decision in AIR 1977 Mad. 407, the jurisdiction of the civil court in

Tenancy matters was not ousted and Section 16-A of the Tamil Nadu Agricultural Lands (Record of Tenancy Rights) Act 1969 was not

retrospective in effect. Section 16-A of the Act came into force on 27.1.1972, whereas the second respondent took possession of the property

through court on 1.10.1971. It was also brought to the notice of the appellate authority that the civil courts had rejected Exs. A-1 and A-2 the

lease deeds relied on by the Record Officer. The appellate authority held that u/s 5 of the Tamil Nadu Agricultural Lands (Record of Tenancy

Rights) Act, 1969, the deletion of the name of the tenant could be done in the following circumstances:

(1) Death, (2) Transfer of interest, (3) Any subsequent change in circumstances, (4) Transaction by means of sale deed and by means of

possession under the orders of the civil court.

Since the appellant Arappa Gounder ceased to be in possession with effect from 1.10.1971 in view of the auction purchaser taking possession

through court, his subsequent enjoyment of the property could only be illegal. In this view of the matter, the appellate authority allowed the appeal

and ordered deletion of the name of the appellant from the Approved Record of Tenancy.

9. Against the said order the appellant preferred a revision before the D.R.O., Erode in R.P. No. 8 of 1982. The revisional authority ordered that

since the civil court had held against the present appellant and that he is seeking his remedies through this second appeal, no action need be taken

under the civil revision petition. As and when he succeeds in his second appeal, he could apply to the Tenancy Record Officer for recording his

name as a tenant by establishing his claim. So the revision petition was

dismissed on 7.7.1982.

10. Mr. K. Chandramouli, learned senior Counsel for the writ petitioner submitted that the revisional authority has confirmed the order of deletion

only on the basis that the present second respondent has succeeded before the civil court. But the question whether the appellant is a tenant or not

has to be decided by the Revenue Court only and the civil court has no jurisdiction to decide the same as per Section 16-A of Tamil Nadu Act 10

of 1969. The Record Officer has found that the appellant alone is in actual possession of the property for 12 years prior to the proceedings as a

cultivating tenant. The deletion of the name of the tenant is permissible u/s 5(1) of the Act only on three grounds namely death, transfer of interest

and any subsequent change of circumstances. None of these causes is available in this case. Both parties are alive, no transfer of interest was

effected after the recording of the appellant as a tenant in the Tenancy Record Register and there is also no change of circumstances. The revisional

authority has simply relied on the finding of the District Judge that the appellant was not in possession as the cultivating tenant and negated the

claim of the appellant. Both the appellate authority as well as the revisional authority had failed to note that the judgment of the civil court would not

bind the authorities functioning under the Tamil Nadu Act 10 of 1969. Even assuming that the verdict of the civil court would bind the revenue

authorities, inasmuch as the civil litigation is pending in S.A. Nos. 880 and 881 of 1981 on the file of this Court, the appellate and revisional

authorities ought to have given an independent finding uninfluenced by the decision of the District Judge. Both the appellate and revisional

authorities without going into the merits of the application u/s 5(2) of Act 10 of 1969 and without applying their mind allowed themselves simply to

be carried away by the result of the civil suit. The revisional authority cannot abdicate his duty to determine the status of the appellant since the

conclusion arrived at by the civil court can have no effect on it. So the orders of the appellate and revisional authorities have to be quashed. In any

event since the orders are perverse, the matter has to be remanded to the revisional authority to decide afresh whether the appellant is a cultivating

tenant or not.

11. Section 16-A of the Tamil Nadu Act 10 of 1969 reads as follows:

No civil court shall have jurisdiction in respect of any matter which the Record Officer, the District Collector or other Officer or authority,

empowered by or under this Act has to determine and no injunction shall be granted by any court in respect of any action taken or to be taken by

such Officer or authority in pursuance of any power conferred by or under this Act.

The scope of this section came to be considered by a Full Bench of this Court in Periathambi Goundan Vs. The District Revenue Officer,

Coimbatore and Others, . The petitioner in that writ petition applied under the provisions of Act 10 of 1969 to the Record Officer for registration

of his name as a tenant. The Record Officer recorded the name of the petitioner on 10.4.1972 as a tenant and the draft record was published on

27.4.1972. In June, 1972 respondents 4 and 5 therein preferred applications u/s 3(6) of Act 10 of 1969 seeking the deletion of the petitioner's

name from the draft record. On 27.12.1972 the Record Officer rejected the applications and confirmed the entry of the petitioner as a tenant in

respect of the lands in question. Respondents 4 and 5 preferred an appeal to the appellate authority under the Act. Since some fresh evidence was

tendered before the appellate authority, the matter was remanded. The Record Officer enquired into the matter afresh and deleted the name of the

petitioner and directed the substitution of the name of the 5th respondent as the tenant. Against this order the petitioner preferred an appeal to the

appellate authority who allowed the appeal and registered the name of the petitioner as tenant. The 5th respondent preferred a revision petition and

the revisional authority allowed the revision petition, deleted the name of the petitioner and registered the name of the 5th respondent as tenant in

the register. In the meantime, on 15.4.1972 the 4th respondent/landlord instituted O.S. No. 250 of 1972 on the file of the District Munsif at

Udumalpet, for a permanent injunction to protect his possession. The suit was dismissed on 4.11.1975 and the dismissal order became final. The

5th respondent instituted O.S. No. 296 of 1972 on 3.5.1972 for a permanent injunction and it was also dismissed and the order became final. The

petitioner in the writ petition also filed a suit for permanent injunction claiming himself to be in possession of the land as a cultivating tenant under

the landlord 4th respondent. The exparte decree granted in favour of the writ petitioner also became final.

12. It was contended before the Full Bench that the authorities functioning under Act 10 of 1969 have no jurisdiction to decide as to who is the

tenant of the lands in question as between two rival claimants, and that Section 16-A of the Act does not bar a civil court from deciding that

controversy. But after considering the scheme of the Act, the Full Bench has held that

Section 16-A did not in any way affect the jurisdiction of the civil court in respect of suits or proceedings validly instituted before the coming into

force of the said section and pending on the date when the said section came into force, whether in the original court or in the appellate or

revisional court. Section 16-A was not intended to and could not affect any suit instituted prior to its introduction, even when the suit was in respect

of a matter covered by Section 16-A. A suit which has been instituted prior to the coming into force of Section 16-A of the Act will have to run its

natural and normal course prescribed by law without in any way being affected by the provisions contained in Section 16-A, because there is

nothing in Section 16-A expressly or by necessary implication taking away the jurisdiction of the civil court validly and competently assumed at the

first instance. Consequently even if a decree had not been passed in a suit at the time when Section 16-A came into force, the fact that Section 16-

A came into force during the pendency of the suit will not prevent the court from exercising its jurisdiction lawfully and validly invoked and the

same principle will apply to the further course of the suit in the form of appeal or revision". The Full Bench went on to point out that "two things are

clear from the language of Section 16-A. One is, the interdict is on the jurisdiction of the matters which by or under the Act have to be determined

by the Record Officer, the District Collector or other officer or authority empowered by the Act. The section itself does not enumerate as to what

those matters are. The second is, the interdict is not on any particular proceeding in the civil court, but only on the exercise of the jurisdiction in

respect of matters. Controversies that come before a court or a tribunal cannot be either pigeon-holed or put in strait-jackets. They may be of

different varieties as well as different standards. For the purpose of deciding the main controversy, the court or the tribunal may have incidentally to

decide a number of subsidiary questions of controversies. Therefore, when the section itself does not enumerate the matters in respect of which the

jurisdiction of the civil court is ousted, one will have to ascertain the said matters, with reference to the other provisions of the Act conferring

power or jurisdiction on the authorities functioning under the Act. Similarly, a suit or proceeding in a civil court may involve the determination of

several matters, some of which may be within the jurisdiction of the authorities functioning under the Act and some others outside the jurisdiction.

In such a case, the suit or proceeding as such cannot fail unless it is of such a nature that it can be terminated solely on the determination of the

matter falling within the jurisdiction of the authorities functioning under the Act.

13. The matters which are within the exclusive jurisdiction of the authorities constituted under the Act are limited by the provisions contained in

Section 3(2) of the Act, because those were the particulars which are directed to be included in the approved record to be prepared under the

Act. The object of the Act as well as the Provisions contained in Section 3(2) make it clear that the Record Officer or the appellate or revisional

authority has to determine the following matters : (1) the survey number or sub-division number, extent and local name, if any, of the land let for

cultivation by a tenant; (2) the name and address of the land owner; (3) the name and address of the intermediary, if any; and (4) the name and

address of the tenant cultivating the land. It may be prima facie stated that these are the four matters which are required to be determined by the

Record Officer or the appellate or revisional authority under the provisions of the Act. However, the necessity to determine these questions may

occur in the context of different controversy and not purely on a specific dispute with respect to these particulars alone. Even the determination of

the particulars enumerated in Section 3(2) cannot be in isolation in respect of any one particular matter but can only be in the context of preparing

the approved record showing the particulars in respect of the land and who is the tenant and who is the land owner. Once the Record Officer or

any other authority functioning under the Act has come to the conclusion that the land has been let for cultivation by a tenant, the matters provided

for in Section 3(2) have to be determined by the Record Officer, or other authority functioning under the Act, and to that extent the jurisdiction of

the civil court is barred u/s 16-A.

14. In view of the decision of the Full Bench, it is evident that Section 16-A of Act

10 of 1969 was not intended to affect any suit instituted prior to its introduction on 27.11.1972. Where the controversy is as to whether a particular piece of land has been let for cultivation by a tenant or not is one constituting the jurisdictional issue which has to be decided before the Record Officer can determine other matters under the Act and that if such a controversy arises, that controversy cannot be said to be within the exclusive jurisdiction of the authorities functioning under the Act/The determination of that controversy by the authorities according to the Full Bench can be said to be incidental to the assumption of jurisdiction by the authorities under the Act and subject to that qualification, when once a Record Officer has come to the conclusion that the land has been let for cultivation, the matters provided for in Section 3(2) of the Act have to be determined by the Record Officer or the authority functioning under the Act and to that extent, the jurisdiction of the civil court is barred u/s 16-A of the Act.

15. In *Ammayappan v. The Additional Collector* (1988) 1 L.W. 196, cited by Mr. V. Narayanasamy, learned Counsel for the respondent, in proceedings under Act 10 of 1969 the Record Officer-Tahsildar of the Village concerned disallowed the claim of the petitioner that he continued to be in possession of the lands as the son of the original lessee after his death as cultivating tenant and must be recorded as such under the Act. Earlier, the petitioner moved the civil court wherein his suit was decreed after contest and the question as to whether he was in possession as a cultivating tenant was incidentally gone into and the answer thereto was given in his favour. In the appeal preferred by the petitioner before the R.D.O., copies of the proceedings in the civil court were admitted in evidence. The R.D.O. set aside the order of the Record Officer and directed that the name of the petitioner should be recorded as a tenant under the Act. There was a revision before the Additional Collector who expressed the view that the decision in the civil suit cannot be conclusive proof of the tenancy status and the tenancy status for the purpose of the Act should be determined only by the authorities under the Act. So he set aside the order of the R.D.O. and restored the order of the Record Officer. In the writ petition, the order of the Additional Collector was put in issue. Meanwhile, the decree in the suit was taken on appeal and second appeal was

affirmed. Nainar Sundaram, J. as His Lordship then has held that the view of the Additional Collector that the decision in the civil suit cannot

be taken note of is unsustainable, in view of the pronouncements of this Court. Since anterior to the decision of the Record Officer, the civil court

has rendered a finding on the question as to the status of a tenant claimed by the petitioner in his favour, and as that is not without jurisdiction,

certainly that will bind the authorities under Act 10 of 1969 and it will not be proper for them to ignore the same. Accordingly, the writ petition was

allowed and the order of the Additional Collector was quashed. The facts referred to above are more or less similar to these in the present action.

16. The scope and binding nature of the judgment of the civil court on the authorities functioning under Act 10 of 1969 again came to be

considered by a Division Bench of this Court comprising of Dr. A.S. Anand C.J. and Raju, J. in *Ramalingam v. District Revenue Officer,*

Thanjavur (1990) 2 L.W. 114. In that case the Record Officer ordered to register the name of the appellant as a cultivating tenant. The appellate

authority set aside the order and remitted the matter back to the Record Officer for enquiry and disposal. In the meantime, the landlord filed O.S.

No. 325 of 1974 on the file of the District Munsif, Kumbakonam against the appellant for permanent injunction contending that the appellant was

merely a pannai agent. The appellant contested the suit and ultimately by a decree dated 25.1.1975 the trial court held that the appellant was not a

cultivating tenant. The judgment of the trial court was also confirmed by the Sub Court, Kumbakonam on 2.3.1977. The said proceedings became

final between parties since they were not challenged further. While matters stood thus, when the Record Officer took up the remanded

proceedings for consideration, the judgments of the civil court were pressed into service by the landlord to contend that the appellant was merely a

pannai agent. The Record Officer holding that the judgment of the civil court was not binding on him came to the conclusion that the appellant was

the actual cultivator and directed his name to be recorded as a cultivating tenant. On appeal the appellate authority without referring to the

judgment of the civil court rejected the appeal in a summary order. The landlord took up the matter in revision before the D.R.O., Thanjavur who

dealt with the matter in considerable detail taking into account the judgments of the civil court as well as the other materials made available by the

appellant before the authorities. Ultimately the D.R.O. set aside the orders of the authorities below holding that the appellant was merely a pannai

agent. In the writ petition learned single Judge declined to interfere with the order of the revisional authority. In the appeal before the Division

Bench it was contended that the orders of the civil court are not binding upon the authorities functioning under the Act and that the authorities have

exclusive jurisdiction to decide about the rights of parties claimed under the Act and that in any event the judgment of the civil court having been

rendered subsequent to the proceedings, the same cannot be given any credence in adjudicating the rights of parties under the provisions of the

Act. The Division Bench rejected this contention and held that it cannot be disputed that the competent civil court in a suit for permanent injunction

between the parties, after trial and consideration came to a finding that the appellant was merely a pannai agent and it was really the landlord who

was in possession of the property. No independent material has been produced by the appellant to substantiate his plea that he was a cultivating

tenant. Though the proceedings under the Act in question have been initiated in 1974, it could not be legitimately contended that there was an

earlier and final adjudication by the competent authority exercising jurisdiction under the Act prior to the judgments of the civil court. Thus, the

findings rendered by the civil court in proceedings between the parties have been rightly referred to and relied upon by the revisional authority to

reject the plea of the appellant that he was a cultivating tenant.

17. The decision of another Division Bench in *S. Balasubramaniam Vs. Shamsu Thalreez and Others*, , has laid down that when the authority

constituted under Act 10 of 1969 has decided the ultimate question under the Act within his jurisdiction and competency and which he is enjoined

to decide in the proceedings under the Act, it is not open to the civil court in a subsequent suit to sit in judgment over the same, as if it is an

appellate authority and render a different decision.

18. In *Ponnusamy v. District Revenue Officer, North Arcot* 95 L.W. 647, cited by learned Counsel for writ petitioner the suit was filed for a

declaration that the plaintiff is a cultivating tenant and for an injunction restraining the defendants from disturbing his possession. *Padmanabhan, J.*

has held that the case falls within the principles laid down by *Ismail, J.* in 93 L.W.

169. If the cultivating tenant files a suit for declaration that he is the cultivating tenant of the land in question and as a consequential relief prays for recovery of possession from the land owner-defendant or for an injunction, the primary relief being one of declaration of his status as a cultivating tenant, the other reliefs being consequential, the civil court may not have jurisdiction to decide the controversy with reference to which the primary relief is prayed for. The suit is, therefore, not maintainable.

19. There is no dispute that of the two present suits which have given rise to S.A. Nos. 880 and 881 of 1981 the earlier one O.S. No. 484 of 1971 was instituted prior to the advent of Section 16-A of Act 10 of 1969. While Section 16-A came into force on 27.11.1972, the other suit

O.S. No. 108 of 1975 was filed subsequently on 14.6.1973. The subject matter of the first action covers 3/4 of the suit property while that in the

next suit is in respect of the remaining 1/4 share. Learned Subordinate Judge had held in O.S. No. 484 of 1971 that the present appellant was not

a cultivating tenant and negated his claim for injunction. And the District Court has confirmed the said judgment in A.S. No. 81 of 1978 anterior

to the order of the Record Officer in T.R. No. 56 of 1976. Since the civil court has rendered its finding on the question as to the status of a tenant

claimed by the appellant in his favour and as that is not without jurisdiction, on the authority of the F.B. and D.B. referred to above certainly it will

bind the Record Officer and it will not be proper for him to ignore the same. The claim of the appellant is that he is a cultivating tenant of the entire

property. Since the revisional authority has negated the claim of the appellant and it cannot be assailed in respect of 3/4 share of the property in

view of the earlier decision of the civil court, the order has to be affirmed in entirety.

20. The appellant has claimed tenancy right on the basis of Exs. A-1 to A-3 and A-26 the unregistered lease deeds dated 14.4.1967, 14.4.1968,

14.4.1969 and 14.4.1970. The Record Officer has chosen to act on the same and upheld the claim of the writ petitioner mainly on the ground that

admittedly the landlord had not given any police complaint about the alleged trespass committed by the writ petitioner 20 days after the second

respondent took possession through court and the further admission of the second respondent that the writ petitioner continued to be in possession

of the property till that date. However, after an elaborate trial learned Subordinate Judge has found that these documents were created solely for the purpose of claiming false right of tenancy over the suit properties on coming to know of the court auction sale in favour of the second respondent. Learned Subordinate Judge also took the view that there was absolutely no evidence available to show that the appellant had taken the suit properties on lease. The entries made in the Adangal Extracts Exs. A-4 to A-6 are not based on facts and they were admittedly made on the basis of information, said to have been furnished by Siddhan and Maran. The District Court has affirmed the findings of the trial court in the appeal. The appellate authority concurred with the reasoning of the civil court and also found that the appellant had not adduced any convincing evidence that he was in possession of the property as a cultivating tenant. The appellate and revisional authorities have passed well-considered orders taking into account the relevant materials on record. The verdicts of these authorities are essentially a finding on a question of fact. In the absence of any clinching documentary evidence which would have the effect of rendering perverse, the finding of fact given by the appellate and revisional authorities it is not possible to invoke the jurisdiction conferred on this Court under Article 226 of the Constitution of India to interfere with the order passed by the appellate and revisional authorities. The impugned orders of these authorities are not vitiated by any error apparent on the face of the record. They have not been shown to be vitiated in any manner warranting interference by this Court in exercise of its powers under Article 226 of the Constitution. The writ petition, therefore fails and has to be dismissed.

21. Regarding the two second appeals both the courts below have concurrently found as a matter of fact that the appellant did not take the property on lease either from the erstwhile owners or from the court auction purchaser and he has made only a futile attempt to uphold his status as a cultivating tenant by creating false documents and entries in cultivation accounts. And the correctness of this finding rendered on facts cannot be canvassed in second appeal. The question of law formulated at the time of admission of the second appeals is whether the judgments of the courts below are sustainable in view of the law laid down by the Full Bench in *Periathambi Goundan Vs. The District Revenue Officer, Coimbatore* and

Others, . The scope of the said decision has already been discussed.

22. However, Mr. Chandramouli, learned senior Counsel for the appellant in the second appeals chose to assail the judgment and decrees of the

lower appellate court mainly on the ground that learned District Judge has dealt with the matter in a perfunctory manner and has not chosen to

discuss the issues in detail. In this case, there was no independent evaluation of evidence by the District Court. So he argued that the cases have to

be remitted back to the lower appellate court for the purpose of passing a verdict as per law. In support of his contention he cited the decision in

Swaminathan Ambalam Vs. P.K. Nagaraja Pillai, . In first appeal in that case, learned Judge without framing the point for determination as

required by Order 20, Rule 4, Sub-clause (2) of the CPC and without discussing the evidence gave a judgment. Held it cannot be said to be a

judgment at all because it is vitiated by failure to comply with the requirements of Order 20, Rule 4(2), C.P.C. In Shankar v. Gangabai (1977) 1

S.C.W.R. 88, the Apex Court deprecated passing of the unspeaking order ""dismissed"" by the High Court. Held : In matters involving construction

of written instruments where rival interpretations have more than mere plausibility, the High Court ought to have given a brief statement of reasons

while dismissing the appeal summarily. Whereas learned Counsel for the respondents cited the decision of the Supreme Court in Girja Nandini

Devi and Others Vs. Bijendra Narain Choudhury, and argued that there was no infirmity in the judgment of the lower appellate court and there is

no reason to remand the matter. The decision relied on is to the effect that it is not the duty of the appellate court when it agrees with the view of

the trial court on the evidence either to restate the effect of the evidence or to reiterate the reasons given by the trial court. Expression of general

agreement with reasons given by the court decision of which is under appeal would ordinarily suffice.

23. On a scrutiny of the judgment of learned District Judge we find that he has stated in extenso the pleadings in the first instance. Thereafter, he

has formulated the points for consideration also. The first two points are in respect of the status of the appellant as a cultivating tenant and the

binding nature of Ex. A-9 sale deed. No doubt during the course of the discussion he observes that he has also gone through the entire evidence let

in by the appellant and he fully agrees with the findings of the trial court that Exs. A-1 to A-3, A-26 and A-8 have been brought up to suit the convenience of the appellant. Learned Counsel for the appellant presses this observation of the lower appellate court in support of his contention that the District Court has not independently evaluated the evidence and instead it has simply upheld the judgment of the trial court without applying its mind. But the judgment of the first appellate court reveals that besides accepting the finding of the trial court that these documents have been got up for the occasion learned District Judge has taken into account other factors such as non-production of receipt for payment of rent to Chithan, the non-examination of lessor Chithan, the inconsistency in the evidence of plaintiff as P.W. 1 regarding possession to disbelieve the case of the appellant. We also find that learned District Judge discussed all aspects of the case in his own way, considered the decision cited and came to his own conclusion as per evidence on record. His approach was certainly original. So, there is no substance in the grievance of the appellant regarding the judgment of the lower appellate court regarding the judgment of the lower appellate court and his request to remit the case to the District Court again to come to a conclusion afresh is clearly untenable.

24. In the result, both the second appeals and writ petition are dismissed with cost (one set of advocate fee).