courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 16/09/2026

(1922) 03 MAD CK 0021

In the Madras High Court

B. Raja Rajeswara Sethupathi alias Muthuramalinga Sethupathi Avergal, Raja of Ramnad (through his authorised agent Rao Sahib S. Thirumalai Ayyanger Avergal Dewan of Ramnad — APPELLANT

Vs

Venkataramaiyar and Another — RESPONDENT

Date of Decision : 13-03-1922

Acts Referred:

Citation : (1922) 43 MLJ 264

Judgement

1. The question referred to the Full Bench is ""Has a Civil Court jurisdiction to entertain a suit by a ryot to set aside a sale of his holding which was

held under the provisions of Chapter VI of the Madras Estates Land Act?"" It is found as a fact in this case for the purpose of the reference that no

notice was given to the ryot by the landholder of his intention to sell. The sale was therefore illegal and Civil Courts of this country have a right to

set aside illegal sales unless there is some statutory provision to prevent them from doing so. It is therefore necessary to look at the Madras Estates

Land Act of 1908 to see if the Civil Courts are precluded from setting aside such a sale. u/s 213 ""Any person deeming himself aggrieved by any

proceedings taken under colour of this Act...shall be at liberty to seek redress by filing a suit for damages before the Collector"" and then Sub-

section 2 says ""This section shall not be deemed to bar any right of action in a Civil Court in any case not taken out of its jurisdiction by this Act"".

In order to ascertain what cases are taken out of the jurisdiction of the Civil Courts by the Act, one has to look at Section 189. u/s 189 suits and

applications of the nature specified in Parts A and B of the schedule can be brought before the Revenue Court and are taken out of the jurisdiction

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/b-raja-rajeswara-sethupathi-alias-…

of the Civil Courts expressly. Turning to the schedule the only article in the schedule which it is suggested could apply is article 12, Part A - where

among the suite triable by a Collector are included suits u/s 112 of the Act to contest the right of sale of a holding and then ''that article gives a limit

of thirty days in which to commence that suit from the date of the service of the notice on the defaulter and looking at Section 112, the land-holder

who has to avail himself of the powers of sale has to give notice in writing to the defaulter, that notice having to be given in a particular way and to

contain certain particulars, and has to inform the defaulter, if he does not pay the amount or file a suit within that date, the property will be sold.

That is the suit and the only suit which is referred to in article 12, Part A of the schedule, namely, a suit by the ryot within 30 days of the service on

him of the notice to contest the right of sale. This suit is nothing of the kind. This is a suit by the ryot which says that his property has been

unlawfully sold and there is nothing in the Act or in the schedules of the Act to take away the jurisdiction of the Civil Courts to try such suits.

2. That being so, the answer to the question referred to us must be in the affirmative.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/b-raja-rajeswara-sethupathi-alias-…