
(1925) 02 MAD CK 0016
In the Madras High Court

Chakiri Subayya

APPELLANT

Vs

Doddi Mal Reddy and Others

RESPONDENT

Date of Decision : 17-02-1925

Acts Referred:

Madras Estates Land Act, 1908 — Section 189

Citation : 90 Ind. Cas. 269

Hon'ble Judges : Spencer, J

Bench : Single Bench

Judgement

Spencer, J.—These civil revision petitions raise a question of jurisdiction. The connected suits were brought by a shrotriendmar to recover

rent for Faslis 1327, 1328 and 1329 and were filed in the District Munsifs Court of Madanapalli. The defendants, who are the petitioners in the

High Court contend that these suits, being suits brought by a land-holder of an estate to recover arrears of rent, are exclusively cognizable by a

Revenue Court. Under Act VIII of 1865, Section 1, shrotriendmars fell under the category of ""land-holders"" and could proceed against their tenants

before the Collectors for recovery of rent provided that they had taken written leases or muchalikkas from them, but they might also be the tenants

of a superior landlord [vide Rama v. Venkatachalam 8 M. 576 : 9 Ind. Jur. 460 : 3 Ind. Dec. 395 and Suryanarayana v. Appa Rau 16 M. 40 : 2

M.L.J. 249 : 5 Ind. Dec. 736 u/s 87 suits for arrears of rent could also be instituted in Civil Courts. Under Act I of 1908, not all shrotriendmars and

inamdars are land-holders, but only those who at the time of the grant did not own the kudivaram, in other words, the share of a tenant with a right

of occupancy.

2. u/s 189 the jurisdiction of Civil Courts to try suits by land-holders to recover arrears of rent is taken away. After this Court's order of remand

the District Munsif has now found on re-consideration that the suits are cognizable by his Court and he has granted decrees to the plaintiff. In

revision the question of jurisdiction of the Civil Court as again mooted in this Court. The District Munsif found upon such evidence as the parties

produced before him that the original grant was not shown to be a grant of the melvaram only. He should have added ""to a person not owning the

kudivaram."" I am not satisfied, after hearing arguments, that this finding which is a mixed one of law and fact is wrong and should not stand.

3. The plaintiff has acquired by purchase the rights of certain vrittidars or sharers in the village of Shrotriem Chinnarao Kottapalli alias Mahal. The

original grant which was made 400 or 500 years ago, is not available. But we know from Ex. 9 that at the time of the Inam Settlement in 18(sic)5,

the village was divided into 30 vrittis and was then under the management of Government, that under the grant half of the revenue went to the

shrotriemdars and the other half to Government, that the vrittidars were in possession of their vrittis and shares and that there was then no

cultivable waste land but that much of the land had been encroached upon by the river and covered with tombs of Muhammadans. The plaint

speaks of ""cultivating tenants"" and the written statement alleges that the shrotriemdars sold away their lands long ago and gave possession to the

raiylats. Exhibits D, BB, CC, and DD are specimens of such sale-deeds. The plaintiff's sale-deed (Ex. C) mentions that the land was in the

vendor's possession and enjoyment with independent rights. It may be that at the present time the shrotriemdars have only the melvaram right, but

for the purpose of jurisdiction it has to be decided whether at the time of the grant they had not the kudivaram right also. In the words of the

Judicial Committee in Suryanarana v. Patanna 48 Ind. Cas. 689 : 41 M. 1012 : 25 M.L.T. 30 : (1918) M.W.N. 859 : 23 C.W.N. 273 : 9 L.W.

126 : 29 C.L.J. 153 : 1 U.P.L.R. (P.C.) 11 : 36 M.L.J. 585 : 21 Bom., L.R. 547 : (1919) : M.W.N. 463 : 45 I. A (sic)09 is it ""proved or is there

any evidence to suggest that at the time of the grant there were any tenants in the village holding lands with any right of occupancy by custom or

otherwise.

4. The evidence rather suggests that originally the shrotriendars or vrittidars were themselves in possession with powers of alienation which they were exercising. At any rate it may be confidently said that it has not been shown in this case that the kudivaram interest was at the time of the grant in the hands of someone else than the donees. If the shrotriendars were originally the kudivaramdars and the melvaram also was granted to them, but they divested themselves of the kudivaram right, the village is not an estate, for on a proper construction of Section 3(2)(d), the words "to a person not owning the kudivaram thereof" evidently refer to the time when the inam was granted (of page 52 of Mr. V. Ramadoss' Commentary on this Act).

5. The District Munsif, therefore, had jurisdiction to try these suits. The Civil Revision Petitions are dismissed with costs.