
(1925) 02 MAD CK 0075
In the Madras High Court

Chinnamma Naidu and Others

APPELLANT

Vs

Venkatammal and Others

RESPONDENT

Date of Decision : 18-02-1925

Acts Referred:

Citation : 90 Ind. Cas. 996

Hon'ble Judges : Devadoss, J

Bench : Single Bench

Judgement

Devadoss, J.—The only point urged in this second appeal is whether the plaintiff is entitled to get maintenance secured under Ex. A, at the rate at which paddy was selling on the date of the plaint. Both the Courts have given a decree for the amount of paddy payable to her at the rate prevailing on the date of the plaint. Mr. Ramanath Shenai on behalf of the appellants urges that Ex. A, provides for payment of money in lieu of the payment of maintenance in kind, and his client is entitled to pay maintenance at the rate mentioned in Ex. A. On the other side it is contended that the document provides for payment of maintenance in kind and that the value of the paddy is given only for the purpose of ascertaining the value for registration purpose and therefore it is said that there is no option to the defendant to pay maintenance in money at the rate mentioned in the document. The recital in the document "is to deliver that paddy worth Rs. 39 for every year, 3 podies of Sambali paddy without moisture and chaff before 17th November every year according to the measure by which paddy is measured for sale. On failure to give every year, with interest at the rate of 4 Vallams for every year on the outstanding paddy from the date of default." Lower down there is this clause, "If at any time the giving of maintenance is delayed at the rate of 13 only for every podi money should be collected or sued for." But for the later clause I would be inclined to hold that the defendant is bound to deliver paddy according to the document and in default of delivery of paddy he should pay the value of the paddy at the market rate. The concluding portion of the document is emphatic in its terms and gives an option to the defendant to pay at the rate of 13 for every podi. If the value of the paddy is given either for the purpose of

registration or for some other purpose, no doubt the defendant could not escape his liability to deliver paddy, and on default to pay the value of the paddy at the market rate. The respondent relies upon a number of cases in support of this contention that the defendant is bound to deliver paddy, and in default to pay the value of the paddy at the, market rate or wherever the claim is made. Only recently I decided in S.A. No. 460 of 1922 following the decision of a Bench of this Court, that a lessee was bound to pay rent in kind and in default he should pay the value of the paddy at the rate ruling on the date of the plaint. But the terms of that document are not the same as the terms of the document in this case. Here the concluding portion of the document which I have already extracted is emphatic and it gives the defendant an option to pay maintenance in kind or in cash at the rate mentioned in the document. There are a number of decisions on this point and they are not all reconcilable. The difficulty has arisen from the facts that Courts have tried to interpret one document in the light of the recitals of another. Where there is no general principle governing the interpretation of the documents each document should be interpreted as it reads. It is not proper to go outside the document to try to find out what the intention of the parties to the document was in fixing a certain amount as the value of the grain rent payable. In a recent case reported as Asutosh Mukhopadhyaya v. Haran Chandra Mukherjee 53 Ind. Cas. 332 : 23 C.W.N. 1021, the learned Chief Justice and two other learned Judges have held that it was not the invariable rule that the rent should be paid in kind; and that each document should be interpreted according to its tenor. In that case reference was made to a number of previous cases and also to an unreported decision of Maclean, C.J., and Banerji, J. The principle deducible from all these cases is that it is not an invariable rule that where a lessee or other person undertakes to pay rent or maintenance or any such thing in kind he should always pay it in kind. Where an option is given to the promisee to pay in kind or in money and if the amount payable in money is fixed in the document, Courts should not go behind the document and say that the intention of the parties was to pay only in kind. It is unnecessary to discuss the cases to which my attention was drawn by the learned Vakil for the respondent. I think the document is clear in its terms and I must give effect to its terms. In the view I have taken I think the judgment of the Court below cannot be supported.

2. It is also vehemently urged by the learned Vakil for the respondent that this is a maintenance arrangement and the plaintiff is entitled to have the maintenance paid in kind as it is required for her food. But that would not take away the clause at the end of the document. I, therefore, consider that the decree of the lower Court on this point is wrong. I allow the plaintiff the amount mentioned in Ex. A, as the value of the paddy which was payable on default of the payment of the 3 podies of paddy. The plaintiff will have a decree for Rs. 39 with interests at the rate mentioned in the document till the date of deposit. In the circumstances I do not think I should allow costs to the appellants. Both parties will bear their own costs in this suit.