
(1959) 08 MAD CK 0024
In the Madras High Court

Chinnappa Naicker

APPELLANT

Vs

A.P.C. Umapathy Nayagar

RESPONDENT

Date of Decision : 20-08-1959

Acts Referred:

Citation : (1960) ILR (Mad) 194 : (1959) 72 LW 621 : (1959) 2 MLJ 466

Hon'ble Judges : Anantanarayanan, J

Bench : Single Bench

Judgement

Anantanarayanan, J.—The revision petitioner is the tenant against whom eviction was ordered by the Revenue Court under Madras Act XXV of 1955. An interesting point is argued in these proceedings that the petitioner in the lower Court was not the "landlord" as defined in Section 2(e) of the Act, for the reason that the petitioner in the lower Court is only the power-of-attorney agent of a legatee under a registered will executed by the previous and admitted landlord, since deceased.

2. Now, "landlord" is defined as "a person entitled to evict the cultivating tenant from such, holding or part". The question is whether the definition would include any person, who, by devolution of law or by any valid disposition of property, obtains an interest in the holding and in the subsisting tenancy. It is true that the definition is cryptic, and somewhat unhelpful. But I see no ground for assuming that when at least applied to a person, who, by devolution of law or by a disposition in his favour, is entitled to the interest in the holding, or the interest in the tenancy the definition would not clothe him with the right. The words of the definition as they stand would clearly include any person who is entitled, under the Common Law, to evict a cultivating tenant from a holding, exercising the same rights as his predecessor-in-title. A contrary interpretation would lead to very great difficulties. In the case of the death of a landlord, it would leave the tenant in virtual possession of the holding owing no obligation to pay rent to anyone, and not being liable to be evicted from the holding by any person whatever. I am unable to hold that this was the intention of the Legislature in

framing this definition. The argument that the person upon whom the right of the landlord devolves in law must first proceed to a Civil Court to obtain a declaration of his right, overlooks the fact that the definition is framed so as to include every person who can claim rent as "landlord" and who thus, by the tenant's default to pay rent, can evict him. Further, the logic is obvious that had the Legislature intended to exclude the person, who by devolution of legal rights would normally be entitled to evict a tenant, or to claim rent from him, some circumscribing or limiting language to that effect would have been employed. The decision in *Ramaswami Naidu and Anr. v. Marudaveera Moopan* (1959) 1 M.L.J. 25, is unhelpful here, for, it deals with the definition of a "cultivating tenant" and holds that the assignees of the original lessee are not included within that term, by virtue of the language of that definition.

3. Under those circumstances, I must hold that the petition in the lower Court was competent, and that interference in revision would not be justified. But, the other ground upon which eviction was ordered, viz., wilful denial of title, does not seem to be valid, upon the facts of the case. It is at least a matter of legal interpretation of the Act, whether, in law, the petitioner in the lower Court could apply for eviction as a "landlord", and the mere fact that the present revision petitioner sought to maintain that he may not be entitled to have the legal status, in the very proceedings themselves, would not constitute wilful denial of title. Such a denial, as a ground for eviction, must obviously relate to a case wherein there has been a previous acknowledgment of title, or an agreement of tenancy, directly between the very parties themselves.

4. In this view, the application was competent ; and obviously time should have been allowed to the revision petitioner for payment of the balance of rent, in the interests of justice. This consideration applies with all the greater force because the revision petitioner seems to have paid the balance of rent to certain other persons, in the mistaken idea that they were the persons entitled to claim as "Landlord" under the Act. Hence, I allow the revision petition to the limited extent of modifying the order of the Court below, by directing that the arrears of rent as stipulated in the agreement of tenancy, and as now found due, should be paid within a month from this date, failing which alone, the order of eviction will be applicable. Parties to bear their own costs.