
(1924) 04 MAD CK 0026
In the Madras High Court

Chintakayala Thammiah Naidu Garu APPELLANT
Vs
Attili Musaliah (dead) and Others RESPONDENT

Date of Decision : 22-04-1924

Acts Referred:

Tamil Nadu Forest Act, 1882 — Section 39, 6

Citation : AIR 1924 Mad 818 : (1924) 20 LW 453 : (1924) 47 MLJ 383

Hon'ble Judges : Wallace, J

Bench : Division Bench

Judgement

Wallace, J.—The question in this case is whether a licensee under the holder of a Dharimila Inam in a Zamindari for a period of 10 years

with a right to tap date trees is a tenant within the meaning of the Section 73 of the Madras Act v. of 1884, so as to be liable to his licensor for the

land-cess payable by the latter under the Act. The plaintiff is an intermediate landholder and had under decree Ex. B to pay Rs. 131-2-6 to his

landlord as land-cess for Faslis 1324 to 1326 plus costs of suit and he seeks to recover half of that sum from the licensees, the defendants.

2. The word "tenant" in the Act is defined to include all persons who occupy lands under a landholder. This definition is not illuminating, and

considerations of the meaning of the word as used in other enactments do not afford much assistance either. It has no doubt been held, e. g., that

the ryotwari holder of a tree patta is an occupier of land within the meaning of Section 6 of the Madras Forests Act [see Reference u/s 39 of the

Madras Forests Act ILR (1889) M 203]. It would be unsafe to infer from that that a licensee of the right to tap date trees in a Zamin inam is a

tenant within the meaning of the definition in Act v. of 1884.

3. I think the question has to be looked at from a different point of view. The tax which plaintiff has to pay to the Zamindar is a "tax on the annual rent value of land." It is calculated u/s 64(3) of the Act on "the annual rent payable to the landholder by his tenants," and the landholder is bound to furnish the Collector under Rule 65, with a statement of the annual rent value of the lands occupied by his tenants or by himself. The word "rent" is not defined in the Act, and it is not clear whether or not it is intended to mean only the rent payable by an estate tenant as defined in the Madras Estates Land Act. I think it may be taken that the Local Boards Act does not contemplate any radical difference between the method of calculation of the rent value on ryotwari land and of the rent value on land held under any other tenure. Now in the case of ryotwari lands it is clear that the rent value is based on the assessment payable to Government for the land. Every one knows what that is, and I do not think it could be seriously argued that, if a ryotwari holder leased out date trees on his holding for tapping, the amount of that lease could be taken into account for the purpose of calculating the rent value of the land u/s 64(i) of the Act. A ryotwari holder is bound so long as he holds the land and therefore so long as he holds the right to lease out the trees upon it, to pay the assessment on the land. It is that and not the lease amount on which the tax will have to be calculated.

4. I do not see why any different principle should be applied to lands in an estate. The lease of trees on these lands does not abolish the rent payable on the lands to the landholder and it is not suggested in this case that that land rent has been abolished. It is asserted that the lands are uncultivable, but only because of a tradition that people who cultivate them do not prosper. The assessed land rate then still remains to provide the basis on which the tax leviable under this Act shall be calculated and the tax can be calculated legally on nothing else. If as a matter of fact the tax has been calculated on any other basis then the landholder himself will have to take action to have the mistake rectified.

5. It follows then that the amount payable under a license for tapping date trees on land which is already subject to land rent is not a proper basis for calculation of the rent value of the land, and is not "rent" as used in Section 64 of the Act. Even if a licensee be, in a manner of speaking, the

tenant of the licensor, the latter cannot recover from the tenant anything not taken legally from him by the Collector and, as set out above, the

Collector cannot, to my mind, legally collect from the landholder as tax u/s 64 of the Act any tax based on the amount of the license.

6. I therefore agree with the District Munsif that the suit must fail and dismiss the Revision Petition with costs.