

(1949) 04 MAD CK 0031
In the Madras High Court

Clement Aaron

APPELLANT

Vs

Kallat Pathanhara Veethil Chatu Nayar and Others

RESPONDENT

Date of Decision : 01-04-1949

Acts Referred:

Citation : (1949) 2 MLJ 106

Hon'ble Judges : Subba Rao, J

Bench : Division Bench

Judgement

Subba Rao, J.—The only question in this revision is whether the petitioner who is a lessee for the purpose of constructing a smithy is a tenant

within the meaning of the Malabar Tenancy Act. Under the document the respondent took pos-session of the land from the landlord for two years

for the purpose of erecting a smithy agreeing to pay a rent of Rs. 6 per year in the paramba belonging to the landlord. The tenant is defined in the

Malabar Tenancy Act under Clause (v) of Section 3 which reads as follows:

"Tenant" means any person who has paid or has agreed to pay rent, or other consideration for his being allowed by another, to enjoy the land of

the latter, and includes an intermediary, a kanomdar, a kuzhikanomdar, and a verumpattamdar of any description.

The respondents in this case are clearly persons who agreed to pay rent for their, being allowed to enjoy the lands, and, therefore, prima facie,

they are tenants within the meaning of clause .

2. The learned Counsel for the petitioner argues that under the Malabar Tenancy Act tenant only means an intermediary, a kanomdar,

kuzhikanomdar and a verumpattamdar. In effect his contention is that the word ""includes"" must be read as "" means."" This argument is contrary to

the plain meaning of the terms used in the definition and also contrary to the express provisions of the section. The definition of a tenant in the

Malabar Tenancy Act is very comprehensive though the rights and liabilities of the four classes of tenants mentioned therein are, dealt with in

greater detail than in the case of persons who do not come under one or other of the said categories. Section 2 of the Act only exempts particular

class of tenants from the operation of the Act and it is not argued that the respondents came under that class of tenants. *Yahya Ali, J., in C.M.P.*

No. 4281 of 1946 held that a lessee of land for the purpose of storing timber is a tenant within the meaning of the Malabar Tenancy Act. I

therefore agree with the lower Court that the respondents are tenants within the meaning of the Malabar Tenancy Act.

3. The civil revision petition is dismissed with costs.