

(1914) 08 MAD CK 0001
In the Madras High Court

C.V.C.T. Chidambaram Chetty

APPELLANT

Vs

Ayyavu alias Muthukaruppan thevan and Others

RESPONDENT

Date of Decision : 03-08-1914

Acts Referred:

Citation : 32 Ind. Cas. 919

Hon'ble Judges : Seshagiri Aiyar, J;Kumaraswami Sastri, J

Bench : Division Bench

Judgement

1. In these second appeals the District Judge is apparently of opinion that Issue II covers all the lands in dispute. The defendants in the various suits

have not denied the correctness of the account annexed to the plaint except with reference to the samudayam lands. For the purpose of this appeal

we must take it that the dispute between the parties is confined to the samudayam karisa lands on which dry crops were raised.

2. Mr. T. Rangachariar argues that as it has been found by the Sub-Collector that the samudayam lands were included in the wet ayacut and as the

said finding has not been upset in appeal, it follows that when the landlord repairs the tank and makes it possible for the tenants to cultivate nanjah

crops, wet assessment is payable. The decision in Lakshmanan Chetti v. Kolandaivelu Kudumban 6 M. 311 which he relies upon is no authority

for this contention. In that case it was found that an original wet assessment was payable which was given up owing to the tanks not being repaired.

The learned Judge held that the landlord was entitled to go back to the wet rate after the repair. There is nothing in the case before us to revert to.

The entire evidence shows that for a long time a definite and uniform rate of money payment was made regarding chillies and cotton. Therefore, the

principle in Venkatagopal v. Bangappa 7 M. 365 applies, and the Court below was justified in presuming an implied contract. The decision in

Parthasarathi Appa Row v. Chevandra Venkata Narasayya 6 Ind. Cas 988; 33 MA. 177; 22 M.L.J. 596; 14 C.W.N. 938; 20 M.L.J. 596; 8

M.L.T. 141; 12 Bom. L.R. 648; 12 Cri.L.J. 233; (1910) M.W.N. 466; 37 I.A. 110 has no bearing, in that case there was no uniform rate of

payment.

3. We agree with the District Judge that the tenants are not bound to pay anything for kanganam or kulavettu in reference to samudayam lands.

They are in the nature of voluntary payments. Mr. T. Rangachariar says that Second Appeal No. 2062 of -1912 has been settled and does not

press it. It is dismissed with costs.

4. We dismiss the other second appeals with costs subject to the modifications that the parties will bear their own costs up to the order of remand.

(Vide Mr. Evan's order in paragraph 3 of the order of remand.)