
(1943) 07 MAD CK 0009
In the Madras High Court

G. Nagarathnam Pillai and Another

APPELLANT

Vs

Guruswami Pillai (died) and Others

RESPONDENT

Date of Decision : 27-07-1943

Acts Referred:

Tamil Nadu Survey and Boundaries Act, 1923 — Section 13, 14

Citation : AIR 1943 Mad 727 : (1943) 2 MLJ 311

Hon'ble Judges : Byers, J

Bench : Division Bench

Judgement

Byers, J.—The only point which has been argued in this second appeal is whether the suit was barred by the provisions of the Madras

Survey and Boundaries Act, 1923; The plaintiffs' case in, brief was that the first defendant and his father had been let into permissive possession of

the two items of property in suit as far back as 1900 and 1908 and that this possession did not become adverse to the plaintiffs until subsequent to

the death of the first defendant's father in 1930, after which the first defendant refused to surrender possession in response to a notice issued by

the first plaintiff. On the facts of the case there is now no dispute and the only point which has been discussed is whether Section 13 of the Madras

Survey and Boundaries Act is a bar to the suit. The appellants' earned Counsel rests his case on the decision in Muthirulandi Poosari and Another

Vs. Muthandi Poosari and Others, while the learned Advocate-General relies on an observation in the decision in Sivaprasad Sowcar Vs.

Sekharamantri Narasimhamurthi and Others, Both these, cases arose out of the old Madras Survey and Boundaries Act of 1897 and the section

of the new Act which is relied upon by the appellants' earned Counsel is Section 13, which found no place in the previous Act. This section

provides for the notification in the District Gazette of the completion of the survey, and it goes on to state that,

Unless the survey so notified is modified by a decree of a Civil Court under the provisions of Section 14, the record of the survey shall be

conclusive proof that the boundaries determined and recorded therein have been correctly determined and recorded.

2. Section 14 provides for the institution of a suit to set aside or modify the result of the survey. Section 13 of the old Act made provision for a suit

to set aside an order of the survey officer or a decision of the appellate authority and provided that subject to the result of such suit, "" such order or

decision shall be conclusive as between the parties to the dispute or to the appeal including those to whom notice of such appeal has been given.

3. Unlike Section 13 of the latter Act, there was no attempt to define the extent to which the decisions of the Survey Officer were to be conclusive.

This has been dealt with in Section 13 of the new Act where it is laid down in clear and unambiguous language that in the absence of any

modification by a decree in a suit u/s 14 the survey is to be conclusive proof of the correctness of the boundaries. The meaning of these words is

self-evident and in order to ascertain their effect it is unnecessary to refer to decisions involving the construction of different sections of the earlier

Act. The contention of the learned Advocate-General that the bar imposed by Section 14 of the new Act applies only to the correctness of the

boundaries and not to questions of title must be upheld. As no other questions arise, the appeal must be dismissed with costs.