

(1935) 11 MAD CK 0048
In the Madras High Court

Gokavarapu Swami

APPELLANT

Vs

Manda Satheyya and Another

RESPONDENT

Date of Decision : 25-11-1935

Acts Referred:

Citation : AIR 1936 Mad 283

Judgement

1. The question that arises for decision in this petition is whether the attachment of the standing crop on the potter service inam land in execution of the decree obtained by the decree-holder in a small cause suit is contrary to law in view of Section 5, Madras Act 3 of 1895. There is no doubt that the land is potter service inam land and that the office of village potter is one of the offices included in Section 3, Madras Act 3 of 1895. The point was decided definitely so long ago as in Kannam Naidu v. Latchanna Dora 1899 in 23 Mad 492, and the learned Judges who laid down the law in that case were Judges to whose opinion a great deal of weight must be attached and one of them was a Judge of great revenue experience. The correctness of that ruling has not been questioned so far as we are aware up till now though more than 35 years have elapsed. The two decisions *Eleswarapu Kamayya v. Jaharazi Jasrazi* Appeal No. 175 of 1927 of Madhavan Nair, J., and C.R.P. No. 1419 of 1927 of Jackson, J., by single Judges which have been referred to in the course of argument do not seem to have anything to do with the emoluments attached to the village office of the kind mentioned in Section 3, Madras Act 3 of 1895.

2. They do not moreover consider the question whether growing crops on village service inam lands are part of the emoluments attached to the offices. We also note that before Madras Act 3 of 1895 became law the enactment which laid down the law on this subject was Regulation 6 of 1831 which makes it very clear that it was the emoluments arising from the land that were annexed to the village offices in question and that it was these emoluments which arise from the land which were declared inalienable and not attachable. It would appear therefore that for a period of nearly a century it has been understood generally that growing crops on village service inam lands are exempt from attachment by

reason of the fact that they are annexed to, and in fact formed part of the emoluments attached to the village offices in question. We see no reason whatever to disturb what has been regarded as settled law for such a long period. The question therefore must be decided in the affirmative, that is to say, that the attachment of growing crops on potter service inam lands is prohibited by Madras Act 3 of 1895. It follows from this that the decision sought to be revised is right and that the revision petition must fail. It is accordingly dismissed with costs.