
(1924) 04 MAD CK 0025
In the Madras High Court

Govinda Naidu and Others

APPELLANT

Vs

Chengalroya Mudali and Others

RESPONDENT

Date of Decision : 07-04-1924

Acts Referred:

Madras Estates Land Act, 1908 — Section 153

Citation : AIR 1925 Mad 22 : (1924) ILR (Mad) 896 : 83 Ind. Cas. 74 : (1924) 47 MLJ 415

Hon'ble Judges : Victor Murray Coutts Trotter, C.J.;Wallace, J;Ramesam, J

Bench : Full Bench

Judgement

Ramesam, J.—The facts are simple. The suit lands are ryoti lands in an estate as defined by the Madras Estates Land Act. Chengama

Naidu, the landholder in 1870, purchased the kudivaram interest. In fasli 1318, the lands were let to the 1st defendant for cultivation for a year.

Thereafter, the 1st defendant continued in possession under yearly leases also agreeing to relinquish possession of the lands at the end of the year.

On 17th June, 1917 the plaintiffs purchased the lands and now seek to eject the 1st defendant.

2. The question referred to us is :--Is Section 153 of the Estates Land Act exhaustive, and does it oust the jurisdiction of Civil Courts in all cases

where it is sought to eject a non-occupancy ryot ?

3. For the purpose of discussing Section 153, I will at once assume (without deciding) that the defendant is a non-occupancy ryot. Phillips, J., gave

some reasons for holding that he is not a ryot at all. There is considerable force in his observations. Assuming, however, that he is a non-

occupancy ryot, we have the following classes of non-occupancy ryots under the Act:

(1) A ryot of old waste [Section 6 (3)].

(2) A ryot of waste land reclaimed by the landlord for a period of thirty years for the reclamation [Section 6 (5).]

(3) A person admitted u/s 8(4), the case before us.

4. There may be others.

5. Section 153 of the Act applies to all these cases. When the case is one of old waste, its effect has to be considered along with Section 157. A

tenant of old waste can be ejected only on the grounds mentioned in Section 153, even if there is a contract to the contrary. But, in the other two

cases of non-occupancy ryots, there is no section similar to Section 157. In these cases, a contract to the contrary will have full operation and the

ryot is prima facie liable to be ejected on the expiry of the term. The words "not otherwise" in Section 153 are used in contrast to the words "on

one or more of the following grounds," and have no reference to the words "before the Collector." The effect of the opening words of the section

is--A suit before the Collector will lie only on certain grounds and on no other grounds. The section does not prohibit a suit before the Civil Court

on other grounds if it lies. The only section in the Act cutting down the jurisdiction of Civil Courts is Section 189 and I do not think another

prohibition of the jurisdiction of Civil Courts is intended in Section 153. If the words "not otherwise" mean not only "on no other grounds" but

also "in no other Court" Section 157 is unnecessary as to old waste.

6. Of the decisions referred to by Phillips, J., in *Ardajeri Rama Reddi v. Karpi Sivaga* (1913) MWN 971, *Ponnusamy Padayachi and Another Vs.*

Karuppudayan and Others, ., Sankara Venkataratnam v. Sri Rajah Varadarajah Appa Rao (1915) 29 MLJ 1840, *Yelikepalli Venkaya and*

Another Vs. Sri Raja Venkatramayya Apparao since declared major and *Another, and President, District Board, Tanjore v. Kannusami*

Thondaman 35 IndCas 121., the decision of Tyabji, J., in *Ardajeri Rama Reddi v. Karpi Sivaga* (1913) MWN 971. has no bearing. In that case it

was found that the land was neither private land nor old waste nor was there any suggestion that the ryot was a non-occupancy ryot. The defend-

ant in it was a ryot to whom Section 6(1) applied. The rest of the observations in that judgment are obiter dicta. No question arose about Section

153 and the case can throw no light on it. The other cases dealt with old waste.

The observations of Spencer, J., in Ponnusamy Padayachi and

Another Vs. Karupudayan and Others, . about Section 153 support my view. The actual decision relates to the application of the proviso to the

section. As to Sankara Venkataratnam v. Sri Rajah Varadarajah Appa Rao (1915) 29 MLJ 184., I do not agree with the view of Oldfield, J., that

it prescribes the Collector's Court as the tribunal for all ejectment suits against them, whatever the ground of liability to ejectment."" It follows I

dissent from the decision in Yelikepalli Venkaya and Another Vs. Sri Raja Venkatramayya Apparao since declared major and Another, ., which is

based on the view adopted by Oldfield, J., in Sankara Venkataratnam v. Sri Rajah Varadarajah Appa Rao (1915) 29 MLJ 184.. The decision in

President, District Board, Tanjore v. Kannuswami Thondaman 35 IndCas 121. turned on the application of Sections 153 and 157 to old waste

and cannot help in cases where the land held by the non-occupancy ryot is not old waste.

7. My answer to the question referred to is :--Section 153 is exhaustive of the grounds of the suit before the Collector but not exhaustive in the

sense that the suits for ejectment of non-occupancy ryots lie only before the Collector. It may be that, as to old waste the effect of Section 157 is

to prohibit a suit for ejectment on grounds other than those in Section 153 (which can be only before a Civil Court) though, even then, the proviso

to Section 153 prevails over both the Sections 153 and 157. But as to other non-occupancy ryots, there is no such section and suits lie before

Civil Court if based on grounds other than those mentioned in Section 153. I agree with Venkatasubba Rao, J."s observation that this is the only

contention which reconciles and gives effect to Section 153, its proviso and Section 157. My view is the view indicated by both the learned Judges

who referred the case.

Victor Murray Coutts Trotter, C.J.

8. I agree.

Wallace, J.

9. I agree.