
(1947) 02 MAD CK 0018
In the Madras High Court

Guttula Masenu and Others

APPELLANT

Vs

Madimpalli Bhavaraju Garu and Another

RESPONDENT

Date of Decision : 25-02-1947

Acts Referred:

Citation : AIR 1947 Mad 375 : (1947) 60 LW 283 : (1947) 1 MLJ 296

Hon'ble Judges : Horwill, J

Bench : Division Bench

Judgement

Horwill, J.—The appellants were defendants in O.S. No. 224. of 1943 and O.S. No. 99 of 1944, the plaintiffs being persons who claimed

to have occupancy rights in the lands in dispute. The case of the appellants was that the plaintiffs were really landholders and that since the

defendants were in possession at the time when the Madras Estates Land Act was amended they acquired occupancy rights.

2. There can be no doubt that the plaintiffs were in possession of the lands for a very long time, long prior to 1908, when the original Act came into

force. On the 11th November, 1887, two documents came into existence, one Ex. P-19, purporting to be a grant by the proprietors of a certain

village, and the other, Ex. P-1, an ordinary lease granting leasehold rights to grantees from the expiration of that agreement, the 1st of April, 1908.

The lower Courts have found that the defendants have not acquired occupancy rights, and that the plaintiffs were in possession of the lands in

dispute even prior to the defendants' occupation. The very many documents filed in the case and the evidence of persons who had long knowledge

of these lands, including P.W. 1 and P.W. 3, the latter being the karnam of the village from 1892 to 1909, show that the plaintiffs were in

possession of about 15 acres of cultivable lands even prior to 1908. Mr. Bhimasankaram contends on behalf of the appellant that it does not

suffice for the plaintiffs to show that they had been in possession before the defendants were, but they had to prove that they were in possession as

ryots. That is no doubt true ; but Exs. P-1 and P-19, together with the other documentary evidence in the case, leads one to that conclusion, in the

absence of any evidence of any other person having been in possession as a ryot.

3. It has been argued that the learned Subordinate Judge should have had regard to kadapas earlier than the suit kadapas and seen that the proper

rent was a cash rent very much smaller than that now claimed. As, however, the learned Subordinate Judge found that the suit kadapas were not

brought about by fraud or misrepresentation, but were binding on the defendants, there can be no question of the appellants having to pay any rent

in cash. What exactly they have to pay as rent has been left to be ascertained by separate proceedings.

4. It has been argued as a point of law that the 1934 amendment to Section 3(15) of the Madras Estates Land Act by adding an explanation that

any person in actual occupation of the land for 12 years shall be deemed to be a ryot, has the effect of giving occupancy rights to whomsoever may

be actually cultivating the land. The explanation of the clause must however be read with the clause itself, and so we cannot ignore the fact that in

the definition of ryot in Sub-section (15) of Section 3, it is necessary that the person claiming to be a ryot should not only be cultivating the ryoti

land, but should be doing so on condition of paying to the landholder the rent which is legally due upon it. To read the explanation as if it were an

independent section would be to nullify an important ingredient of the definition of a ryot. Moreover, one cannot construe the statute so as to take

away the occupancy right of a ryot without express words to that effect. It could not have been the intention of the Legislature by this amendment

to deprive persons who were formerly ryots of their status as ryots by giving occupancy rights to some other person who was not until then a ryot

at all. The purport of this amendment was to give occupancy rights to a person who was able to prove occupation for 12 years where there was

no other ryot already having occupancy rights in the land. Section 19 of the Act also shows that this explanation was not meant to affect the

relationship between the ryot and his lessee ; for that section says :

Except as otherwise specially provided in this Act, the relations between a ryot and his tenants or between a landholder and a tenant of his private

land, and the rights of any other owners of land, are not regulated by the provisions of this Act.

For the reasons above given, the contention cannot be accepted that the Legislature intended by that explanation to deprive ryots of their

occupancy rights in order to give them to others.

5. The appeals are dismissed with costs, Advocate"s fee (one set).