

(1954) 04 MAD CK 0024

In the Madras High Court

Case No : Civil Revision Petition No. 1317 of 1952

Kalleti Munuswami Setti

APPELLANT

Vs

Muppirala Jagannadham

RESPONDENT

Date of Decision : 23-04-1954

Acts Referred:

Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 — Section 3
Transfer of Property Act, 1882 — Section 76

Citation : AIR 1955 Mad 266

Hon'ble Judges : Rajamannar, C.J

Bench : Single Bench

Advocate : A. Kuppuswami, for the Appellant; Govt. Pleader (Andhra) and M.B. Rama Sarma, for the Respondent

Final Decision : Allowed

Judgement

Rajamannar, C.J.—This revision petition arises in proceedings for the passing of a final decree in pursuance of a preliminary decree in a suit

for redemption filed by the respondent against the petitioner. The respondent applied to the Court below for the recovery of a sum of Rs. 609-8-4

as balance due for past mesne profits and for determination of future mesne" profits. The only contention on behalf of the mortgagee who is the

petitioner before me which merits any consideration is that the respondent is not entitled to credit for the profits on the land from 7-9-1949, i.e.,

the date on which a notification was issued by the Government under Act 26 of 1948, taking over the estate, of which the suit mortgage concerns a

part. The Contention was that as the respondent had no more interest in the property after the said date the petitioner was not liable to account for

the profits of the property to the respondent on and from that date. This contention was not accepted by the learned District Munsif.

2. I think the District Munsif was wrong in not upholding this contention of the petitioner. It is true that the relationship between the petitioner and the respondent may continue in spite of the notification under Act 26 of 1948, it is true that the mortgagee in possession will be liable to render an account in accordance with the terms of Section 76, Transfer of Property Act. The question, however, is whether the respondent-mortgagor will be entitled in such taking of accounts to the rents and profits of the property on and from 7-9-1949. In my opinion, he will not be entitled. u/s 3s. (b) of the Madras Act 26 of 1948, on and from the notified date, the entire estate stands transferred to the Government and vests in them free of all encumbrances" The "result is, on and from that date, the respondent has ceased to be the owner of the property. Once he has lost his title to the property, he cannot obviously be entitled to the rents and profits of that property. Whether the Government would be entitled or not to claim the rents and profits from that date from the petitioner, I am not called upon to discuss in this petition. There is no such claim before me. But it is clear to me that the respondent has no right whatever to claim the rents and profits from the property as and from the said notified date.

3. The civil revision petition is allowed to this extent and the order of the District Munsif will be modified in accordance with this judgment. No order as to costs.