

(1896) 04 MAD CK 0013
In the Madras High Court

Kamalammal

APPELLANT

Vs

Raju Naicker and Others

RESPONDENT

Date of Decision : 01-04-1896

Acts Referred:

Citation : (1896) ILR (Mad) 308

Hon'ble Judges : Arthur J.H. Collins, C.J;Benson, J

Bench : Division Bench

Judgement

1. Plaintiffs, as the alienees of two villages of the first defendant's zamindari under Exhibit I, applied to the Collector under Act I of 1876 to have

the two villages registered in their names. Owing to the first defendant's objection the Revenue authorities refused to make the transfer of registry.

Plaintiff's, as persons aggrieved by this order, sued first defendant and the Secretary of State for India (second defendant) u/s 6, Act I of 1876, for

a declaration that such separate registry ought to be made. The lower Court decreed that it ought, and first defendant now appeals against that

decree. The Government Pleader, on behalf of the second defendant, states that Government is indifferent to the result of the suit. It is urged by

appellant that under the terms of Exhibit I the first defendant (appellant) alone and not the plaintiffs (respondents 1 to 4) are liable, notwithstanding

the alienation, to pay the land revenue to Government, and that there is, therefore, no occasion for separate registry, and that Act I of 1876 is

inapplicable to the case, as its purpose is to make better provision for the separate assessment of revenue on alienated portions of estates. We

cannot admit that this is so. Section 8 of Regulation XXV of 1802 allows the proprietors of zamindaries to transfer their proprietary rights in the

whole or in part of their zamindaries and Regulation XXVI of 1802 and Act I of 1876 provide for the separate registry and assessment of the

alienated portions. Without such separate registry the alienee cannot collect rents as a landlord under Act VIII of 1865 Valamaramayyan v.

Virappa ILR 5 Mad. 145 and Ayyappa v. Venkatakrishnamarazu ILR 15 Mad. 484 and without separate assessment he is liable to have his

property sold at any time for arrears accruing on the other parts of the zamindari. It is, therefore, essential that he should get separate registry at

least in order that he may enjoy the fruits of the alienation. Government, in order to maintain the security for the public revenue due from the estate,

apportions the revenue separately as a natural result of the alienation and this Government will do notwithstanding any arrangement between the

parties as to which of them is to be responsible for the revenue. It is argued that u/s 2 of Act I of 1876 the Collector cannot transfer the registry

unless all the parties concur. That section relates to transfer of registry by agreement of parties on application to the Collector. It does not control

or affect the power of the Civil Court u/s 6 of the Act to direct separate registration. The right to registry follows the title, and under Exhibit I the

title is in the respondents 1 to 4. The decree of the lower Court was, therefore, right. This appeal fails and is dismissed with costs.

2. Two sets of costs will be allowed--one to the respondents 1 to 4, and one to respondent 5.