

(1924) 02 MAD CK 0043
In the Madras High Court

Kizhakkepat Krishna Menon

APPELLANT

Vs

Marambatte Unni Mamu and Others

RESPONDENT

Date of Decision : 22-02-1924

Acts Referred:

Citation : AIR 1925 Mad 1222 : (1925) 22 LW 186 : (1925) 49 MLJ 99

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

Bench : Division Bench

Judgement

Victor Murray Coutts Trotter, C.J.—In this case the plaintiff sued for the recovery of lands lei to the defendants who were his tenants.

Under the Malabar Compensation for Tenants Improvements Act of 1899, it is well known that the landlord is bound to compensate the tenant on

ejectment for the improvements effected by the tenant. In this case the improvement that is in dispute in second appeal was an improvement alleged

to consist of the conversion of one crop into two crop land, described in the suit as item (1). The case for the tenants was that this land, having

been at one time one crop land, had at the time of the ejectment become two crop land, and having regard to the provisions of Section 4 of the

Act, that was enough for them, because the effect of that section clearly is to throw upon the landlord, when once it is shown that one crop land

has been converted into two crop land, the burden of proving that this was not due to anything done or spent by the tenant. In this case the story

set up by the landlord in the Courts below was that this land had been two crop land throughout its history, or, at any rate, throughout its history

under the tenancy of the defendants or their predecessors-in-title. That is dealt with by both the Courts below, by the learned Subordinate Judge in

paragraph 9 of his judgment and by the District Munsif in paragraph 15 of his judgment, and it is clear there from that those learned Judges

rejected the story, and the only story at that time, put up by the plaintiff to rebut the presumption created by Section 4 of the Act. Now it is sought

to be said that, because the word "" improvements "" in the section is paraphrased by the words "" works or the products of such works, "" therefore,

we must demand proof that the improvement, the conversion of one crop land into two crop land, was definitely due to the exertions of the tenant

or otherwise it cannot be described as "" work."" It appears to us that to accede to such an argument would in effect be to throw the burden of

proof in the opposite direction to where the statute has deliberately indicated that it should lie. In support of this contention reference is made to the

case of Kunnath Madampil Kunjunm v. Mannar ghat Ramunni (1977)35 MLJ 219. I do not think it is necessary for me to say very much about

that case. I observe that, so far as appears from the report, no reference is made to the all-important section of the statute, Section 4, and I will

content myself at this stage with saying that I am by no means clear that that case was rightly decided and that I reserve for myself the right to

reconsider the correctness of that decision if, at any future occasion, it should be directly challenged.

2. The result is that S.A. No. 176 is dismissed with costs. S.A. No. 549 follows S.A. No. 176 and it is also dismissed with costs. Time for

redemption extended by three months.