

(1967) 08 MAD CK 0035
In the Madras High Court
Case No : Second Appeal No. 4 of 1964

Kulandaiswami Madurai and Others	Vs	APPELLANT
Murugayya Madurar and Others		RESPONDENT

Date of Decision : 04-08-1967

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 9
Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 — Section 56

Citation : AIR 1969 Mad 14 : (1968) 81 LW 350

Hon'ble Judges : Alagiriswami, J

Bench : Single Bench

Advocate : G. Ramaswami and T.S. Sundaresa Iyer, for the Appellant; T.R. Ramachandran and K. Chandramouli, for the Respondent

Final Decision : Dismissed

Judgement

1. Defendants 1 to 5 are the appellants. Their only contention is that a Settlement Officer appointed under the Madras Estates Abolition Act (Act XXVI of 1948) having issued a patta in their favour the Civil Court has no jurisdiction to go into the question of title. The finding of the courts below that the plaintiff alone has title to this property is not questioned. The argument is purely a technical one based on Section 56 of the Madras Estates Abolition Act. The patta in favour of the defendants was granted on 21-2-1957 and Section 56 was repealed only thereafter. The argument of the appellants in short is that u/s 56 Sub-section (1) Clause (c) of Act XXVI of 1948, the Settlement Officer has to decide the dispute as to who the lawful ryot in respect of any holding is and that therefore the Settlement Officer in this case having decided that the defendants are the lawful ryots in respect of this particular holding, it is not open to a civil court to entertain any suit with regard to the question as to who is the

lawful ryot in respect of any holding.

2, Under Act XXVI of 1948 as soon as an estate is notified all rights which any person might own in the estate come to an end and the persons

are entitled only to such rights as are recognised or conferred on them by or under that Act. u/s 11 every ryot in an estate is entitled to a ryotwari

patta in respect of all ryoti lands which immediately before the notified date were properly included or ought to have been included in his holding.

Thus Section 11 itself confers the power on the settlement officer to decide who is entitled to a ryotwari patta. Therefore, there was no need for

Section 56 to provide separately for the right of the Settlement Officer to decide the questions as to who is entitled to a patta in respect of any

ryotwari land. Section 56 was intended not to confer a power on the Settlement Officer to decide as to who was entitled to a ryotwari patta in

respect of any particular ryotwari land but merely for the other purpose which are mentioned in Sub-section (1) of Section 56; which reads-

(1) Where after an estate is notified, a dispute arises as to (a) whether any rent due from a ryot for any fasli year is in arrear or (b) what amount of

rent is in arrear or (c) who the lawful ryot in respect of any holding is, the dispute shall be decided by the Settlement Officer"".

It would be obvious from a reading of this section that the power of the Settlement Officer to decide who the lawful ryot in respect of any holding

is, is only for the purpose of the other two clauses, that is, for the purpose of realisation of the arrears of rent and not for the purpose of issuing a

ryotwari patta. There is therefore no room for the argument based on Sub-section (2) of Section 56 that as the Settlement Officer has decided this

question and issued a patta to the defendants, the civil court has no jurisdiction to consider who has got title to the property.

3. It is well established that a civil court has normally jurisdiction in respect of every civil matter except such matters as are taken away from its

jurisdiction either expressly or by necessary implication. Decisions of this court have held that the power of the Settlement Officer under Act XXVI

of 1948 is only for the purpose of giving effect to the provisions of Act XXVI of 1948 and except to that extent, the power of the civil court to

deal with matters which are within its jurisdiction is in no way affected. The question of title to any particular property is not a matter which the

Settlement Officer is competent to deal with. It is essentially a matter for the civil court to decide. The fact that the Settlement Officer has, for the limited purpose of issuing a Patta, to decide who the owner of a holding is does not mean that his decision on that point is final and that the civil court cannot decide that question. In fact Section 56 was omitted from the statute only because it was found to be superfluous and giving rise to unnecessary difficulties. See Fort St George Gazette part IV-A Extraordinary dated 25-9-1958 in which the Bill was published. I do not think that the decision relied on by the appellants in Adakalathammal Vs. Chinnayyan Panipundar, , really helps the appellants, because in that case Section 56 had been repealed and therefore the other discussion is merely in the nature of obiter. In any case, the question has not been considered from the point of view from which I have now considered it. I may also mention that I have taken the same view in another case decided by me in S, A. No. 607 of 1963 (Mad).

4. In the result I hold that the jurisdiction of a civil court to decide the question of title to any ryotwari land in an estate notified and taken away by the Government under Act XXVI of 1948 has not been taken away either expressly or by necessary implication by any of the provisions of Act XXVI of 1948 and much less by Section 56. The second appeal is therefore dismissed with costs. No leave.