

(1940) 01 MAD CK 0011
In the Madras High Court

Madura Devasthanam

APPELLANT

Vs

Masanam Pillai

RESPONDENT

Date of Decision : 19-01-1940

Acts Referred:

Tamil Nadu Agriculturists Relief Act, 1938 — Section 15

Citation : AIR 1940 Mad 422 : (1940) 51 LW 322 : (1940) 1 MLJ 369

Hon'ble Judges : Abdur Rahman, J

Bench : Division Bench

Judgement

Abdur Rahman, J.—The whole village of Bodinaikenpatti was granted to Devasthanams at Madura as a sarva inam by the Carnatic Rulers,

This was a major inam; but at the time when this inam was brought into existence certain minor inams had already been granted in this village. One

of these minor inams was purchased by the defendants" predecessors in title. A suit was instituted on behalf of the devasthanams against the

defendants for the recovery of certain water charges, land cess, etc., the former of which were claimed on the ground that the water had been

taken by the defendants for the second crop which they were not entitled to use without paying for it and the latter for what the plaintiff was alleged

to have paid to the Government on behalf of the defendants. It is unnecessary to decide in this case whether the claim was made in respect of a tort

committed by the defendants or as held by my learned brother Mr. Justice Somayya in Sree Mullapudi Venkatarayudu, Zamindar Vs. President,

District Board and Others, , in regard to the breach of an implied engagement. It is however necessary to remember that the suit was not instituted

by a landlord against his tenant which would have been cognisable by a revenue Court - but by a major inamdar in a Civil Court against a minor

inamdar. The plaintiff's suit was decreed, although the decree was not satisfied before the Madras Agriculturists' Debt Relief Act (IV of 1938)

came into operation. The judgment-debtors consequently made an application for stay of execution u/s 20 and under Rule 6(1) framed under the

Act. The District Munsif of Madura granted the application and stayed execution. This has led the decree-holder to come up to this Court in

revision.

2. The only question to decide in this revision is whether the amount decreed in favour of the devasthanams falls within the definition of rent. If it

did, it would fall within the ambit of Rule 6(1) framed under the Act. This rule refers to Section 15 and the section lays down the conditions under

which rent due to landholders is to be deemed to be discharged. Relying on the Full Bench decision of this Court in Kotta Venkatraju Garu Vs. Sri

Rajah Sahib Maharban Dostan Sri Raja Ravu Kumara Mahipathi Surya Rao Bahadur Garu, Sirdar, Rajahmundry Sircar and Maharaja of

Pithapuram and Others, . The District Munsif was of opinion that the amount decreed came within the purview of the definition of rent. But he

apparently overlooked the most important fact that the Full Bench decision was given in a case where an action was brought by a landholder to

recover rent from his ryot while the relationship between the major and minor inamdars could not be held to be that of a landlord and tenant, even

if it was assumed that the grants were made to both the inamdars by the same personage or authority. Since the relationship of landlord and tenant

did not subsist between the parties, the suit was instituted in a Civil Court and not before the Deputy Collector as in the case decided by the Full

Bench. If the jural relationship between the parties is not that of the landlord and tenant Section 15 of the Madras Agriculturists' Debt Relief Act or

Rule 6(1) would have no application.

3. Rent has been defined by the Madras Estates Land Act to include

whatever is lawfully payable in money or in kind or in both to a landholder for the use or occupation of land in his estate for the purpose of

agriculture and includes whatever is payable on account of the use and enjoyment of waters supplied or taken for cultivation of land, where the

charge for such water has not been consolidated with the rent payable for the land.

4. The above definition implies that the payment to the landholder must be by a person who is bound to pay rent for the land. The minor inamdar cannot be said to be under a liability to pay any rent to a major inamdar.

5. For the above reasons, Rule 6(1) could not be said to apply to the minor inamdars who made the application for stay and the application should not have been accepted by the Court below. The revision is, therefore, accepted and the order passed by the District Munsif set aside. The petitioner will have his costs in this Court.