

(1986) 02 MAD CK 0039
In the Madras High Court

Manjammal and Another

APPELLANT

Vs

Arulmigu Nachadaithavirtharulia Swami Thirukoil
(Devadanam)

RESPONDENT

Date of Decision : 26-02-1986

Acts Referred:

Citation : (1987) 100 LW 32 : (1987) 1 MLJ 224

Hon'ble Judges : Ratnam, J

Bench : Division Bench

Judgement

Ratnam, J.—Defendants 1 to 5 in O.S. No. 79 of 1974, Sub-Court, Ramanathapuram at Madurai, who are the wife, sons and daughters

respectively of one" P.K. Gurusamy Raja, are the appellants in this appeal. That suit was laid by the respondent herein (Temple, for short) for the

recovery of a sum of Rs. 60,300.69 p. with interest from out of the assests of late P.K. Gurusamy Raja in the hands of the appellants. There is no

dispute that the Temple owns a tope of an extent of 85-50 acres situate in Muthusamipuum and North Devadanam villages. On 15th June, 1957,

an auction was conducted for the lease of the tope for three faslis from fasli 1367 to fasli 1369 and in that auction deceased P.K. Gurusamy Raja

was the highest bidder for Rs. 20,000 and he executed a lease deed containing certain terms and conditions, which need not be noticed in detail

for purposes of this appeal. Subsequently, for faslis 1370 to 1372 (1st Duly 1960 to 30th June, 1963), deceased P.K. Gurusamy Raja became the

lessee on payment of lease rent of Rs. 20,000. Some time prior to the expiry of that lease, the Temple is stated to has agreed to lease out the tope

for a further period of three years from 1st July, 1963 and the lessee P.K. Gurusamy Raja claimed that he paid a sum of Rs. 5,000 on 15th

August, 1963 and another sum of Rs. 5,000 on 11th October, 1963 towards the lease and on the basis that a concluded contract of lease had thus

come into existence, he also instituted O.S. No. 55 of 1963, Sub-Court, Ramanathapuram at Madurai, for a declaration that the contract relating

to the tope was valid and that he was not liable to be evicted and for an injunction restraining them from holding an auction of the tope. The Temple

resisted the suit contending that there was no concluded contract of lease in favour of deceased P.K. Gurusamy Raja from 1st July, 1963 as

claimed by him and that he was also not entitled to any protection under the tenancy legislations. In that suit, it was found that deceased P.K.

Gurusamy Raja had established that there was a fresh concluded contract for the lease of the tope for a period of three years from 1st July, 1963.

Though that finding sufficed for the disposal of the suit, the learned Subordinate Judge, after referring to the definition of a "cultivating tenant" under

Tamil Nadu Act 25 of 1955 and the repeal of the provisions of that Act by Tamil Nadu Public Trusts Act, 57 of 1961, further held that u/s 51 of

Tamil Nadu Public Trusts Act, a tope was exempt and that (sic) only if the provisions of Tamil Nadu Cultivating Tenants' Protection Act would

not apply. In accordance with the decree granted in that suit, deceased P.K. Gurusamy Raja continued to be a lessee of the tope till about 30th

June, 1966. Later, deceased P.K. Gurusamy Raja took the tope on lease for faslis 1377 to 1379 (1st July, 1967 to 30th June, 1970) on payment

of a lease rent of Rs. 23,000 subject to certain conditions enumerated in the lease deed. One of the conditions was that 250 coconut saplings

should be planted every year and handed over to the temple on the expiry of the lease" period. According to the temple, it was felt that the lease

rent of Rs. 23,000 was low and though the Deputy Commissioner, Hindu Religious and Charitable Endowments Department, refused to accord

sanction for this subsequently, the lease in favour of deceased P.K. Gurusamy Raja was approved for fasli 1377 only on an annual lease rent of

Rs. 27,000. The Temple claimed that when the Deputy Commissioner camped at Devadanam on 13th October, 1968, deceased P.K. Gurusamy

Raja orally agreed to pay an enhanced lease rent of Rs. 27,000 from fasli 1377. The case of the Temple was that for faslis 1377 to 1379, the lease

amount payable by deceased P.K. Gurusamy Raja for the tope was Rs. 27,000 per fasli and that after giving credit to the amounts received, there

was a balance of Rs. 16,290-69 P. due from him. This claim was stated to be in time on the basis of an acknowledgment signed and part payment made by deceased P.K. Gurusamy Raja on 4th April, 1971. The further case of the Temple was that when the then trustee of the Temple arranged for granting a lease of the tope for faslis 1378 to 1380 in favour of one N. Ponniah Thevar for a lease rent deed with one K. Sankarapandia Thevar for a rent of Rs. 30,000 per fasli in respect of faslis 1390 to 1382, deceased P.K. Gurusamy Raja instituted O.S. No. 54 of 1970, Sub-Court, Ramanathapuram at Madurai, for an injunction restraining the Temple as well as K. Sankarapandia Thevar from interfering with his possession and obtained a decree and this resulted in deceased P.K. Gurusamy Raja continuing to enjoy the usufructs of the tope. An appeal against O.S. No. 54 of 1970 was filed in A.S. No. 20 of 1973, District Court, Ramanathapuram at Madurai and during the pendency of that appeal, P.K. Gurusamy Rajao died, and the present appellants were brought on record. However, that appeal was dismissed and the dismissal was also confirmed by this Court in S.A. No. 302 of 1975. According to the Temple, for faslis 1380 to 1382, the reasonable lease rent was Rs. 30,000 per year and inasmuch as the deceased P.K. Gurusamy Raja and the appellants continued to remain in possession and enjoyment of the tope -and enjoyed the usufructs, they should be directed to pay a sum of Rs. 44,010 for faslis 1380 to 1382, after giving credit to such payments as were made in a sum of Rs. 45,990. Thus, the temple sought to recover from the appellants the balance of the lease rents for faslis 1377 to 1382 totalling to Rs. 60,300. 69 p. comprised of Rs. 16,290.69 p. for faslis 1377 to 1379 and Rs. 44,010 for faslis 1380 to 1382.

2. In the written statement filed by the appellants, they contended that the claim for the balance of lease rent due" for faslis 1377 to 1,379 on the basis of Rs. 27,000 per year was unsustainable as the amount specifically mentioned was only Rs. 25,000 The appellants disputed their liability for faslis 1377 to 1379 and also stated that the claim was barred by limitation. In so far as the claim for faslis 1380 to 1382 was concerned, they contended that the lease rent of Rs. 30,000 per year was patently unsustainable and was in disregard" of the contractual rent and that certain deposits made in proceedings taken by the Temple would wipe out the claim for faslis 1380 and 1381 and that they were willing to pay a sum of

Rs. 23,000 for fasli 1382.

3. In an additional written statement, the appellants put forth the plea that deceased P.K. Gurusamy Raja deposited a sum of Rs. 23,000 to the credit of O.S. No. 54 of 1970, Sub-Court, Ramanathapuram at Madurai, which had been subsequently withdrawn by the Temple and this would wipe out the arrears in accordance with the provisions of Tamil Nadu Act 21 of 1972. Referring to the later payment of Rs. 23,000 under a receipt, dated 10th February, 1973, the appellant pleaded that that should go in discharge of the rent of fasli 1382, and, therefore, no amount was due.

4. Before the court below, on behalf of the Temple, Exhibits A1 to A31 were marked and the clerk of the Temple was examined as P.W. 1, while, on behalf of the appellants, Exhibits B1 to B10 were filed and the second appellant gave evidence as D.W. 1. On a consideration of the oral as well as the documentary evidence, the learned Subordinate Judge found that for faslis 1377 to 1379, the lease amount payable by deceased P.K.

Gurusamy Raja was only Rs. 23,000 per fasli and not Rs. 27,000 as claimed by the Temple. The deposit of Rs. 23,000 to the credit of O.S. No.

54 of 1970, Sub-Court, Ramanathapuram at Madurai, was held to be of no avail to the appellants to claim a discharge under" the provisions of

Tamil Nadu Act 21 of 1972. It was also further found that there was no acknowledgment of liability in respect of lease arrears for faslis 1377 to

1379 and, therefore, that claim was barred by limitation. In so far as falis 1380 to 1382 were concerned, the learned Subordinate Judge found that

the reasonable rent for the tope would be Rs. 30,000 per fasli and after giving credit to the amounts paid, the appellants were found to be liable to

pay a sum of Rs. 44,010 for those faslis. Adverting to the scope and effect of prior adjudication in O.S. No. 55 of 1963, Sub Court,

Ramanathapuram at Madurai, the learned Subordinate Judge held that the Temple was barred by res judicata from raising the issue of the status of

the appellants as cultivating tenants. In accordance with these findings, the learned Subordinate Judge granted a decree in favour of the Temple for

a sum of Rs. 44,010 With interest thereon at 6 per cent per annum from the date of plaint till the date of payment with proportionate costs. While

the appellants in this appeal challenge the correctness of the decree passed

against them, the Temple has preferred a Memorandum of Cross

Objections with reference to the claim for the lease amount for faslis 1377 to 1379 disallowed by the Court below.

5. In C.M.P. No. 2155 of 1986, the Temple sought permission to raise additional grounds regarding the finding arrived at by the Court below on

the prior decision in O.S. No. 55 of 1963, Sub-Court, Ramanathapuram at Madurai, operating, as res judicata.

Since the additional grounds sought to be raised by the Temple relate to a pure question of law we permitted the counsel for the Temple to

challenge the conclusion of the Court below on the question of res judicata as well.

6. The Learned Counsel for the appellants first contended that having regard to the deposit of a sum of Rs. 23,000 to the credit of O.S. No. 54 of

1970 Sub-Court, Ramanathapuram at Madurai, under the provisions of Tamil Nadu Act 21 of 1972, that payment should be taken as having been

made for fasli 1381 wiping out the arrears for the prior faslis 1377 to 1380. On the other hand, the Learned Counsel for the Temple submitted that

the status of the appellants, who are the wife and children of the deceased P.K. Gurusamy Raja, as cultivating tenants, had not been adjudicated

upon and that in any event, the deposit to the credit of O.S. No. 54 of 1970, Sub-Court, Ramanathapuram at Madurai, cannot be said to be in

accordance with Section 3(2) of Tamil Nadu Act 21 of 1972, and therefore, the appellants cannot claim the benefit of discharge for the prior faslis

1377 to 1380 by the deposit of a sum of Rs. 23,000 stated to be for fasli 1381.

7. u/s 3(2) of Tamil Nadu Act 21 of 1972, if a cultivating tenant pays or deposits, or has paid or deposited, or is deemed to have paid or

deposited, the whole of the current rent in any suit or proceeding pending on the date of the publication of that Act for the recovery of any arrears

of rent, or for the eviction of a cultivating tenant for non-payment of any arrear of rent, then the Court or the competent authority shall order the

dismissal of the suit or proceeding in so far as such suit or proceeding related to the recovery of arrears of rent or for eviction of a cultivating tenant

for non-payment of arrears of rent. O.S. No. 54 of 1970, Sub Court, Ramanathapuram at Madurai, instituted by the deceased P.K. Gurusamy

Raja was a suit simpliciter for injunction. No relief regarding the recovery of

arrears of lease or for eviction could have been asked by deceased

P.K. Gurusamy Raja. When the suit. thus instituted by deceased P.K. Gurusamy Raja was not for recoery of arrears or for eviction, then, the

deposit, if any made, even on the assumption that deceased P.K. Gurusamy Raja and the appellants were cultivating tenants, would not have

availed them to claim the benefits of Section 3(2) of Tamil Nadu Act 21 of 1972. Further, there was no adjudication of the correctness or

otherwise of the, deposit made and only when there had been such an adjudication and a deposit of the deficiency, if any, the current rent shall be

deemed to have been paid for the purpose of that Act. That course had not been pursued or followed. Thus, none of the requirements of Section 3

of Tamil Nadu Act 21 of 1972 was present and, therefore, it is futile for the appellants to claim the benefits of, Tamil Nadu Act 21 of 1972. We

have, therefore, no hesitation in rejecting this contention of the Learned Counsel for the appellants.

8. The Learned Counsel for the appellants next contended that the Court below was in error in having fixed the reasonable rent for faslis 1380 to

1382 at the rate of Rs. 30,000 per fasli. In this connection, the Learned Counsel referred to the evidence of P.W. 1 and stated that there are no

details whatever regarding the basis for arriving at the reasonable rent at Rs. 30,000 per fasli. On the other hand, the Learned Counsel for the

Temple submitted that the number of trees in the tope in question is clearly borne out by Exhibits A26 and A27 and that even on the applications

made by third parties evidenced by Exhibits A18 to A21 and the admissions of D.W. 1 regarding the yield from the coconut trees only, the total

income from the tope would be very substantial justifying the fixation of the reasonable rent at 30,000 per fasli, as fixed by the Court below.

9. It is seen from Exhibit B4 dated 29th July, 1957 that the agreed rent for faslis 1367 to 1369 (1st July, 1957 to 30th June, 1960) was Rs.

20,000 per fasli. Exhibit A4 (original Exhibits B5) dated 26th March, 1961 shows that an extra sum Rs. 300 was agreed to be paid for cultivating

some other lands also in addition to the tope. Under Exhibit B6 dated 23rd September, 1967, for faslis 1377 to 1379 (1st July, 1967 to 30th

June, 1970) the agreed rent was Rs. 23,000. It is thus seen that there is an increase even in the agreed rent. Though the Temple claimed that for

faslis 1377 to 1379, deceased P.K. Gurusamy Raja agreed to pay Rs. 27,000 we are not able to accept that there was such an agreement.

Exhibits A7 and A10 clearly negative any such agreement. Under Exhibits A7 addressed by the Deputy Commissioner, Hindu Religious and

Charitable Endowments Department, Madurai, to the Temple on 17th October, 1968, it is stated that deceased P.K. Gurusamy Raja had agreed

to consider the lease rent payable and communicate his decision and the Executive Officer was directed to do so. Exhibit A10 dated 19th

October, 1986 is a copy of the letter addressed by the Temple to deceased P.K. Gurusamy Raja. Even in that letter the Temple stated that

deceased P.K. Gurusamy Raja had agreed to consider and communicate his decision regarding the Tease rent in excess of Rs. 23,000 agreed to

by him. He was also requested to communicate his decision within three days. The tenor of the communications Exhibits A7 and A10 clearly

establishes that there was no agreement on the part of the deceased P.K. Gurusamy Raja to pay lease rent at the rate of Rs. 27,000 instead of Rs.

23,000 as agreed to by him. There is, therefore, no evidence to support the claim of the Temple that for faslis. 1377 to 1379, deceased P.K.

Gurusamy Raja in fact agreed and accepted to pay Rs. 27,000 per" fasli for the three faslis in question. That, however, would not make out that

the Temple is not entitled to the fixation of a reasonable rent for faslis 1380 to 1382 on the basis of such materials as are available. The two

important documents in this connection are Exhibits A26 and A27. These are extracts from the Tree Register maintained by the Temple. Exhibit

A26 shows that in 1964, there were 4,437 coconut trees, besides guava trees, ilava trees, palmyrah, tamarind trees, mango trees, Jack-fruit trees,

fig trees, etc. in the tope. Exhibit A27 shows the number of yielding trees in 1979. According to that, there were 3,289 yielding coconut trees, 524

yielding palmyrah trees, 105 tamarind trees, 455 guaa trees, 380 ilava trees, etc. The evidence of P.W. 1 is to the effect that if the trees as found in

Exhibits A26 and A27 are let out, the lease rent would be more than Rs. 30,000 per annum. However, D.W. 1 in the course of his cross-

examination admitted that the coconut trees will yield once in 60 days and that on the average very tree will yield not less than 10 coconuts. In

other words, the average yield per tree would be about 60 coconuts per annum. It has also to be remembered that under the terms of the lease

Exhibit B6, the lessee was obliged to raise 250 new coconut trees every year. Besides, the evidence of D.W.I relating to the yield per tree on the average per cutting, puts it too low. From the figures furnished in Exhibit A26, even if the non-yielding trees mentioned therein are all treated as coconut trees, then, the yielding coconut trees alone come to 4,385 in 1964. In 1979, the corresponding figure comes to 3,289. Even taking the number of yielding coconut trees at about 3,000" for the period in question and the average yield per tree at 100 to 120 coconuts per year, the appellants should have been realising, at the rate of about 30 paise per coconut (which again is too low), a sum of Rs. 90,000 to Rs. 1,00,000.

This does not include the income referable to the yield from the other trees. If that is also included, it is obvious that the income from the yield from the tope would have been of the order of Rs. 1,00,000 or Rs. 1,20,000. Though some reliance placed upon Exhibits A18 to A21 show that there were offers to take the tope on lease from fasli 1380 onwards for rents ranging from Rs. 36,000 to Rs. 60,000 per fasli, in the absence of the examination of the persons who made these offers, we are not inclined to place any reliance on them as we are of the opinion that the income can be more precisely ascertained from the available data relating to the yield, rather than from the so-called offers. We are, therefore, in agreement with the Court below that the claim made by the Temple for faslis 1380 to 1382 at Rs. 30,000 per fasli is quite reasonable and proper.

10. That takes us on to the Memorandum of Cross objections filed by the Temple. Earlier, it has been found that for faslis 1377 to 1379, the lease amount payable by the deceased P.K. Gurusamy Raja was only Rs. 23,000 per fasli. Even as regards this claim, the appellants raised a plea that the claim was barred by limitation and that plea was upheld by the Court below. The Learned Counsel for the Temple placed considerable reliance upon Exhibit A16 dated 4 th April, 1971 and contended that the claim for faslis 1377 to 1379 is not barred as well as an acknowledgment of the liability by deceased P.K. Gurusamy Raja thereunder. On the other hand, the Learned Counsel for the appellants submitted that the genuineness of Exhibit A16 had been disputed and that the definite evidence of D.W. 1 is that Exhibit A16 did not contain the signature of deceased P.K. Gurusamy Raja and, therefore that cannot constitute an acknowledgement or a part-payment so as to save limitation.

11. It is seen from paragraph 16 of the judgment of the Court below that it found that Exhibit A16 contained the signature of deceased P.K.

Gurusamy Raja. However, we find that it is rather difficult to accept that conclusion. Though, P.W. deposed that deceased P.K. Gurusamy Raja

signed Exhibit A16 in his presence and that he and the Executive Officer of the Temple had also put their initials therein. D.W. 1 has categorically

disputed the signature of deceased P.K. Gurusamy Raja in Exhibit A16. In view of this evidence, it becomes necessary for the Temple to establish

that the signature contained in Exhibit A16 is that of deceased P.K. Gurusamy Raja. Apart from the evidence of P.W. 1, there are also certain

other documents available, which admittedly contain the signature of the deceased P.K. Gurusamy Raja and which have been produced by the

Temple. Exhibit A4 is a registered lease deed executed by the deceased P.K. Gurusamy Raja to the trustee of the Temple on 26th March, 1961.

That admittedly contains the signature of deceased P.K. Gurusamy Raja. Similarly, Exhibit A12 dated 9th March, 1968 is a receipt issued to

deceased. P.K. Gurusamy Raja. That also contains the signature of deceased P.K. Gurusamy Raja. These two admitted signatures clearly

establish that deceased P.K. Gurusamy Raja had a shaky and unsteady hand while affixing his signature. On the other hand, the signature found in

Exhibit A16 is very steady. Besides this, The first letter found in Exhibits A4 and A12 is very different from what is found in Exhibit A16. When we

compare the admitted signatures found in Exhibition A4 and A12 letter by letter with the signature found in Exhibit A16 and also as a whole, it is at

once obvious that the signature of deceased P.K. Gurusamy Raja found in Exhibit A16 cannot be his. If in 1961 and 1968 the signature of

deceased P.K. Gurusamy Raja was shaky and unsteady, it is rather difficult to accept that 10 or 3 years later, his signature had improved so much

and had also become very steady Further, we also find certain interpolations in Exhibit A16 in a different ink.. Having regard to these features

found with reference to the signature of deceased P.K. Gurusamy Raja in Exhibit A16 we are unable to agree with the Court below that Exhibit

A16 contained the signature of deceased P.K. Gurusamy Raja. There is no dispute that if Exhibit A16 is not accepted, then, the claim for faslis

1377 to 1379 would not be recoverable by the Temple as the suit was instituted on 28th March, 1974. We, therefore, hold differing from the trial

court that as Exhibit A16 does not bear the signature of deceased P.K. Gurusamy Raja, no liability could be fastened on the appellants on the

basis of that document. We find that the Court below had concluded that there is no acknowledgment of liability in Exhibit A16 to save limitation.

It is unnecessary in our view to go into that question as we are satisfied that the signature found in Exhibit A16 is not that of deceased P.K.

Gurusamy Raja. We, therefore, uphold the conclusion of the Court below that the claim for faslis 1377 to 1379 is barred, though for different

reasons.

12. That leaves for consideration the submission made on behalf of the Temple that the decision in O.S. No.55 of 1963, Sub Court,

Ramanathapuram at Madurai, cannot operate as res judicata, in so far as the status as cultivating tenants is concerned. We find a reference to the

proceedings in O.S. No. 55 of 1963, Sub Court, Ramanathapuram at Madurai, in Exhibit B3. Therefrom, it is seen that a finding had been

rendered in O.S. No. 55 of 1963 to the effect that in respect of the tope in question, the provisions of Tamil Nadu Act 25 of 1955 would be

applicable and that deceased P.K. Gurusamy Raja was entitled to protection under that Act. It was on the basis of this finding that this Court while

dealing with S.A. No. 302 of 1975 against O.S. No. 54 of 1970 instituted by deceased P.K. Gurusamy Raja felt that though this decision may be

erroneous, it was not open to the Temple to go behind it. It is also seen from Exhibit B3 that on behalf of the Temple an argument was raised that

the tope was not governed by the provisions of Tamil Nadu Act 25 of 1955 in view of the repeal of that Act by Section 62 of Tamil Nadu Public

Trusts (Regulation of Administration of Agricultural Lands) Act 57 of 1961, and, therefore, deceased P.K. Gurusamy Raja or others would not be

entitled to the benefits of Tamil Nadu Act, 25" of 1955. Though this argument was referred to, the learned Judge thought that it was not necessary

to give any finding on this point as he was of the view, that the finding in O.S. No. 55 of 1963, Sub Court, Ramanathapuram at Madurai, would

bar the consideration of that question again. O.S. No. 55 of 1963 was instituted by deceased P.K. Gurusamy Raja only for the purpose of

establishing that there was an agreement for further extending the period of lease in his faour by three years from 1st 3uly, 1963. That was held to

be made out in the course of that suit. On that conclusion, there was no further need for the Court to consider whether deceased P.K. Gurusamy

Raja was a tenant entitled to the benefits of Tamil Nadu Cultivating Tenants' Protection Act. In other words, finding that the deceased P.K.

Gurusamy Raja was entitled to the benefits of Tamil Nadu Act 25 of 1955 was wholly unnecessary for the adjudication in O.S. No. 55 of 1963.

Besides, even assuming that the rights of deceased P.K. Gurusamy Raja were governed by the provisions of Tamil Nadu Act 25 of 1955 to begin

with, there was a repeal of the provisions of Tamil Nadu Act 25 of 1955 by Section 63 of Tamil Nadu Public Trusts (Regulation of Administration

of Agricultural Lands) Act, 57 of 1961, in so far as public trusts are concerned. There is no dispute that trusts are concerned. There is no dispute

that the Temple is a public trust and that ordinarily the provisions of Tamil Nadu Public Trusts Act would govern it and any person claiming tenancy

rights from such a public trust. To hold that the decision in O.S. No. 55 of 1953, Sub Court, Ramanathapuram at Madurai, would operate as res

judicata would be to say that the Temple will not be governed by the provisions of Tamil Nadu Public Trusts (Regulation of Administration of

Agricultural Lands) Act, 57 of 1961, despite the repeal of Tamil Nadu Act 25 of 1955 in relation to public trusts. That it cannot so operate as res

judicata is established by the decision of the Supreme Court in Mathura Prasad Bajoo Jaiswal and Others Vs. Dossibai N.B. Jeejeebhoy, . In that

case, the Supreme Court, considering the question as to when the decision on a question of law would operate as res iudicata, pointed out that

where the decision is on a question of law, that is, interpretation of a statute, it will be res judicata in a subsequent proceeding between the same

parties, where the cause of action is the same, for, the expression "the matter in issue" in Section 11, Code of Civil Procedure, means the right

litigated between the parties, where the cause of action is the same, for the expression "the matter in issue" in Section 11, Code of Civil Procedure,

means the right litigated between the parties, that is, the facts on which the right is claimed or denied and the law applicable to the determination of

that issue. It was also pointed out that by regarding the decision in the previous proceeding as conclusive, the status of a special rule of law

applicable to the parties in derogation of the rule declared by the legislature cannot be given. Applying that principle here, it is seen that the cause

of action for O.S. No. 55 of 1963, Sub-Court, Ramanathapuram at Madurai, was not the same as either in O.S. No. 54 of 1970 or in the suit, out

of which this appeal has arisen. Undoubtedly, they were all different. Besides, to give effect to the decision in O.S. No. 55 of 1963 would enable

the application of the provisions of Tamil Nadu Act 25 of 1955 to the tope in question, when the legislature had enacted Tamil Nadu Public Trusts

(Regulation of Administration of Agricultural Lands) Act, 57 of 1901 as the enactment which is applicable to the tope owned by the Temple, which

is admittedly a public trust. Above all, the appellants are the wife and children of deceased P.K. Gurusamy Raja and the benefit of any adjudication

that deceased P.K. Gurusamy Raja was a cultivating tenant or that his relationship with the Temple was governed by the provisions of Tamil Nadu

Act 25 of 1955, cannot be automatically availed of by the appellants. It is not in dispute that there has been as yet no determination of the status of

the appellants as cultivating tenants. Under those circumstance and in view of the principles laid down in the decision of the Supreme Court

referred to above, we are of the opinion that the finding of the Court below that the decision in O.S. No. 55 of 1963, Sub-Court,

Ramanathapuram at Madurai, or the one following that in Exhibit B5 would operate as res judicata, cannot be sustained. While holding that the

Temple, being a public trust, would be ordinarily governed by the provisions of Tamil Nadu Public Trusts (Regulation of Administration of

Agricultural Lands Act, 57 of 1961, however, we leave open the question of the status of the appellants under Tamil Nadu Public Trusts

(Regulation of Administration of, Cultural Lands) Act, 57 of 1961, as the materials on record do not enable us to give a finding one way or the

other. We may also point out that in the course of the appeal in A.S. No. 20 of 1974 and. before this Court in S.A. No. 302 of 1975 there has

almost been an assumption regarding the status of the appellants. The status of the appellants depends upon their conforming to the requirements of

the status and cannot be a matter of assumption. For the foregoing reasons, we hold that the prior proceedings in O.S. No. 55 of 1963 and S.A

No.302 of 1975 would not operate as res judicata as to enable the appellants to contend that they are entitled to the benefits, of Tamil Nadu Act

25 of 1955, despite the repeal of that Act by the provisions of Tami Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act,

57 of 1961. We therefore, set aside the finding of the Court below on issues 1 and 2 and leave open the question of the status of the appellants

under Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 57 of 1961.

13. In the result, we hold that the Temple is not entitled to recover the lease rent for fasiis 1377 to 1379 as the claim for that period is barred and

that in respect of fasiis 1380 to 1382, after giving credit to the payments admittedly made, a sum of Rs. 44,010 is recoverable by the Temple

against the appellants on the footing that Rs. 30,000 per fasli would be the reasonable rent. Though the finding of the court below on issues 1 and 2

had not been accepted by us that would not make any difference to the ultimate decree in favour of the Temple. Consequently, the appeal as well

as the Memorandum of Cross-objections are dismissed. There will be no order as to costs.