

(1948) 09 MAD CK 0019
In the Madras High Court

Maruthia Subrahmanyam

APPELLANT

Vs

Nivarthi Lakshmi Narayanamma

RESPONDENT

Date of Decision : 17-09-1948

Acts Referred:

Citation : (1948) 61 LW 789 : (1948) 2 MLJ 523

Hon'ble Judges : Panchapakesa Aiyar, J

Bench : Division Bench

Judgement

Panchapakesa Aiyar, J.—The only point for determination in this petition is whether the lower Court went wrong in law in taking the year

before filing the plaint to be the revenue or agricultural year 1945-1946, and whether it should have taken it to mean a calendar year, as contended

by the learned Counsel for the petitioner, relying on a clause in the General Clauses Act. I am of opinion that the lower Court did not go wrong in

law. The General Clauses Act is, as its very name implies, a general Act subject to the particular context. If there is nothing else to guide the Court

in the particular case, regarding the year, then the year has to be taken as a calendar year. In the present case, we are, admittedly concerned, with

the income from the land, and it is well known that regarding land the annual income is understood usually to be the income from the revenue year

or cultivation year, unless the parties have contracted otherwise, or unless there is something in the context to show that anything different was

meant. So too, there is the financial year, the Income Tax year, and several other years, apart from the calendar year, recognised for various

purposes, in spite of the General Clauses Act and the provision referred to by the learned Counsel for the petitioner. The learned Counsel for the

petitioner has relied on the ruling in *Ghasiram v. Hargovind* ILR (1906) All. 411 and has contended that the lower Court may at least be directed

to find out the income from the suit lands for a calendar year, i.e., for 365 days, before the date of the filing of the plaint, in order to see whether

the lower Court will have jurisdiction or not to try the suit. In the view I take, it is unnecessary to do so, since I am convinced that, ordinarily, in

matters relating to land, in this part of the country, the revenue year or the agricultural year is taken for the purpose of income, whatever the case

may be in Allahabad and the United Provinces.

2. The next point urged by the learned Counsel for the petitioner was that the lower Court went wrong in estimating the income of even the revenue

or agricultural year 1945-46 at Rs. 2,000 to Rs. 3,000, and that it should have taken it to be far above Rs. 3,000, calculating from the evidence

given by P. W. 2 regarding the yield from the lands and the prices of the crops. It is obvious that the estimate arrived at by the lower Court

regarding the income in the revenue or agricultural year 1945-46 was purely a question of fact having nothing to do with law, and will become an

error in law only if the lower Court had no evidence at all to support its finding, and was merely acting on surmise. Here, it was obviously acting on

evidence on record, and on inferences therefrom and not on mere surmise without any evidence. Therefore, this contention also must fail.

3. The learned Counsel for the respondent raised an objection that no revision petition would lie as the matter affected court-fee. I am unable to

agree. If the matter affected court-fee alone which is one purely between the Government and the plaintiff, no revision petition might have lain, but

when it involved a question of jurisdiction of the lower Court also, as here, the petitioner was clearly interested in the matter, as his rights of appeal

to the High Court, etc., would be affected. So I overrule this preliminary objection of the respondent's Counsel.

4. In the end, therefore, the petition deserves to be and is dismissed, but, in the peculiar circumstances, without costs, as there is no direct decision

stating that the year in this presidency regarding the income from agricultural land will mean the revenue or agricultural year, in the absence of any

contract to the contrary or other circumstances compelling such inference.