

(1896) 03 MAD CK 0012
In the Madras High Court

Muthuvijaya Raghunadha Raju Tevar and Others	APPELLANT
Vs	
Chockalingam Chetti and Others	RESPONDENT

Date of Decision : 20-03-1896

Acts Referred:

Citation : (1896) ILR (Mad) 335

Hon'ble Judges : Subramania Ayyar, J

Bench : Single Bench

Judgement

Subramania Ayyar, J.—The plaintiffs sue for possession of certain lands from which they state they have been wrongfully evicted. Their case

is that the first plaintiff holds the melvaram right and the plaintiffs Nos. 2 to 6 the kudivaram right in the village of Peria Pudukulam, that the lands in

dispute form part of the said village, that the defendants Nos. 12 to 85, who had been cultivating the lands under the plaintiffs Nos. 2 to 6, had, at

the instigation of the defendants Nos. 1 to 11, cut and carried away the crops that had been raised for the fasli 1298, and that ever since the

defendants Nos. 1 to 85 have combined together and retained possession of the lands, alleging that the same form part of the village of Rangian

belonging to defendants Nos. 1 to 11.

2. The Subordinate Judge held that the plaint was, on the face of it, bad for misjoinder of parties and causes of action.

3. Now when two persons are interested in a piece of land--one as melvaramdar and the other kudivaramdar--and a third party commits a

wrongful act which affects the rights of the persons so interested, it may, I think, properly be held that the land is common to both to the extent of

entitling them to sue jointly in respect of the wrongful act, treating such act as

giving rise to but one cause of action affecting the two persons more or less compare the observations in Venkatachelum Chetti v. Andiappan Ambaiam ILR 2 Mad. 233. This view would, of course, prevent the unnecessary multiplicity of suits which would otherwise result. For, taking this very case, and even supposing that the plaintiffs Nos. 2 to 6 do not hold all the lands jointly sharing the crops only, but that they hold definite parcels of lands on account of the share of each, and that each of these plaintiffs brings a suit against the defendants in respect of so much of the lands in question as belongs to him, the point to be decided in each of such suits would be whether the respective lands form part of the Peria Pudukulam village. This point would have to be tried in the first plaintiff's suit also, since that suit would embrace every one of the lands comprised in the various suits supposed to be instituted by the plaintiffs Nos. 2 to 6.

It is therefore difficult to see what useful purpose can be served by refusing to permit the first plaintiff, the melvaramdar, and the other plaintiff's, the kudivaramdar, to sue together and have the question whether the whole or any and which part of the disputed lands is attached to Peria Pudukulam village tried and settled once for all.

4. As to the objection that the various defendants themselves claim or are likely to claim portions of the disputed land as their separate property, I think that is altogether immaterial, because the point to be decided is not what the interests of the defendants are should the plaintiffs fail to establish their case, but whether the plaintiff's case is true.

5. The order of the Subordinate Judge seems, therefore, to be wrong, and I reverse it and direct that the plaint be restored to the file and dealt with according to law.

6. The costs will abide and follow the result.