

(1891) 12 MAD CK 0014
In the Madras High Court

Narayanachariar

APPELLANT

Vs

Ranga Aiyangar and Another

RESPONDENT

Date of Decision : 10-12-1891

Acts Referred:

Citation : (1892) 2 MLJ 94

Judgement

1. The District Judge is no doubt right in holding that Section 10 of Madras Act VIII of 1865 has reference to proceedings u/s 9 only, but it does

not, in our opinion, follow that in a summary suit u/s 8 the Collector is debarred from adjudicating upon the question whether the relation of

landlord and tenant exists between the parties.

2. He is to try the case, and the plaintiff's case is that he is a tenant and entitled to a patta which defendant denies. To say that the Collector is to

hold his hand and make no further enquiry, merely because the land-holder denies that plaintiff is his tenant, is to put it in the power of the land-

holder always to deprive the tenant of the remedy by summary suit given him by Section 8. If upon inquiry the Collector finds that plaintiff does not

hold the land under the land-holder, that may be a reason for dismissing the suit, but the issue whether plaintiff is or is not a tenant of defendant

must be properly tried and determined on the evidence and not on the mere word of the defendant.

3. We must reverse the decrees of the Lower Courts and remand the suit to the Head Assistant Collector for trial on the merits.

4. Appellant is entitled to his costs in this and the Lower Appellate Courts.