

(1924) 07 MAD CK 0049
In the Madras High Court

P. Chenga Reddy and Another

APPELLANT

Vs

Surabhi Venkatalakshmi Narasayya

RESPONDENT

Date of Decision : 15-07-1924

Acts Referred:

Citation : AIR 1925 Mad 274 : (1924) 20 LW 549

Hon'ble Judges : Jackson, J

Bench : Division Bench

Judgement

Jackson, J.—This is an appeal from the, decree of the Subordinate Judge, Chitoor, in A.S. No. 183 of 1921. The appeal is by the defendants who are tenants of the plaintiff in Swarnambupuram Agraharam. They claim that they are tenants within the meaning of the Madras Estates Land Act and, if that is not allowed, at any rate that they have established an occupancy right and also a right only to pay their rent in cash. These are the only three points which are raised in this appeal.

2. I do not find that the learned Subordinate Judge has erred in any respect. The document under which the grant of this Inam was originally made is Exhibit A and I agree that from the terms of Exhibit A it is clear that there was a grant of the kudivaram as well as melvaram. The lands granted under Exhibit A seem to have been granted for house-site. It is extremely difficult to understand exactly what Exhibit B means, but I do not think that in any way affects the interpretation of Exhibit A. Once it is found that the appellants have no rights under the Madras Estates Land Act, it is very difficult for them to establish occupancy title. The attempt to do so is by eliciting various circumstances the cumulative effect of which it is argued amounts to proof of such title : (1) That they have long been in undisturbed possession, but it would be a very mischievous doctrine to hold that merely because a landlord does not disturb his tenant, he is presumed to have lost his right to do so. (2) That they have always paid a uniform rate of rent. Again it would be equally mischievous to hold that because a landlord has never raised the rate upon his tenant, he is never entitled

to do so. (3) That a well was constructed. A tenant without occupancy right is often bound to sink a well even if he runs the risk of losing the fruit of his labours, and nothing can be inferred from this fact. (4) That one or two mortgages have been executed by the tenants as if they had occupancy right. This, of course, is a transaction which cannot affect the title of the landlord who is not a party to the documents. (5) That although muchi-likas are taken for one year only, there are no express terms as regards surrender. This carries the matter no further. (6) That in O.S. No. 4 of 1917 there was a compromise by which certain tenants did get occupancy right. Looking at the terms of the compromise, it seems to me that they got occupancy right at a price, for they have foregone any claim of remission in bad seasons. (7th and lastly). That one Chengalvarayudu was given permanent lease before the present tenants came in which he subsequently abandoned. I cannot see how any contractual relations between the landlord and Chengalvarayudu can affect the claim of the present defendants.

3. As regards the question whether the defendants are entitled to pay only cash rent, the matter has been satisfactorily disposed of in paragraph 9 of the learned Subordinate Judge's judgment : "The mere payment of uniform cash rent for several years cannot lead to the inference that there was a contract to pay cash rent only." If the tenants have no occupancy right and no other rights under the Madras Estates Land Act, there is no reason why a landlord, after giving due notice, should not vary the terms of the rent. I support the finding of the Subordinate Judge on this point.

3. Accordingly the appeal fails on all grounds and is dismissed with costs.