

(1974) 04 MAD CK 0034
In the Madras High Court

Pavadai Padayachi

APPELLANT

Vs

Pichammal

RESPONDENT

Date of Decision : 01-04-1974

Acts Referred:

Citation : (1978) 87 LW 894 : (1974) 2 MLJ 344

Hon'ble Judges : N. S. Ramaswami, J

Bench : Division Bench

Judgement

N. S. Ramaswami, J.—The respondent herein has obtained decrees for arrears of rent in three different suits and those decrees are sought to be executed. The tenant, who is the appellant in the C.M.S.A. and petitioner in the two revision petitions (hereinafter referred as the revision petitioner), filed counter statement contending that he is entitled to the relief under Tamil Nadu Act XXI of 1972. The Court below has held that the revision petitioner is not entitled to the relief, on the ground that, the land cultivated by him being his own, he is not a cultivating tenant. The fact is that the revision petitioner had executed a usufructuary mortgage in respect of the land in favour of the respondent and there is a lease-back arrangement between the parties. It is under that arrangement the revision petitioner has been cultivating the land for a fixed rent. The question is whether there is no relationship of landlord and tenant between the respondent and the revision petitioner. Admittedly under the lease-back arrangement, the respondent is entitled to get rent for the land from the revision petitioner and there is really no dispute that the relationship of landlord and tenant between the respondent and the revision-petitioner does exist. However, the learned Counsel for the respondent contends that the definition of the term "cultivating tenant" in Act XXV of 1955 as amended in Act IX of 1969 would show that the land cultivated by the tenant should be owned by another person. The contention is that, the revision petitioner not having transferred all his rights in the land to the respondent and he being still the owner of the equity of redemption, it cannot be said that he is cultivating the land of another person. Under the definition of the word cultivating tenant" it is stated that the person must contribute his own

physical labour or that of any member of his family in the cultivation of any land belonging to another. The learned Counsel for the respondent wants to equate the term "belonging to another" in respect of the land with ownership, of the same. However, I am unable to agree with this contention.

2. The revision petitioner was no doubt the full owner of the land. Out of the bundle of rights which he had, he has already transferred all the rights, except the right to the equity of redemption, in favour of the respondent. The respondent, in his capacity as usufructuary mortgagee, is entitled enter into a lease-back arrangement with the revision petitioner and it is under that arrangement the revision petitioner is bound to pay the rent. There is nothing to show that the word "belonging" is synonymous with ownership. As a matter of fact, in *Raja Mohammad Amir Ahmad Khan Vs. Municipal Board of Sitapur and Another*, , their Lordships of Supreme Court have pointed out that, though the word "belonging" is capable of denoting an absolute title, it is nevertheless not confined to connoting that sense. Even possession of an interest less than that of full ownership could be signified by that word. Under the circumstances, the civil revision petitions and the appeal are allowed. There will be no order as to costs.