

(1935) 02 MAD CK 0008
In the Madras High Court

(Poomulli Manakkal Mooppil Stanom) Narayanan
Nambudripad and Another

APPELLANT

Vs

(Pottekkat kazhunkil) Gopala Menon and Others

RESPONDENT

Date of Decision : 01-02-1935

Acts Referred:

Malabar Compensation for Tenants Improvements Act, 1899 — Section 3

Citation : AIR 1935 Mad 693

Hon'ble Judges : Madhavan Nair, J

Bench : Division Bench

Judgement

Madhavan Nair, J.—In this second appeal by the plaintiff-appellant the question raised relates to the value of improvements awarded by the

lower Court. The property redeemed had a house on it built by the tenant, and trees of various kinds also. For the house which was a residential

one a sum of Rupees 6,502-9-8 was awarded as value for improvements. It is not disputed, before me that, in is an improvement, but what is

contended for by Mr. Sastri is that, in arriving at this sum, a wrong principle was applied by the lower Court. The sum was arrived at shortly

stated, by estimating the value of the materials used in building the house. The commissioner inspected the house and produced his valuation. Mr.

Sastri says that the principle to be applied is to find out what the house and the land will fetch, if the property is sold in auction, and then give for

the house what is found as the sum remaining after deducting from the total amount the value of the land. This principle of valuation, reasonable

though it may seem to be, cannot be applied to the valuation of houses which are improvements under the Malabar Tenants Improvements Act. An

improvement is defined in Section 3 as meaning

any work or product of work which adds to the value of the holding, is suitable to it and is consistent with the purpose for which the holding was

let, mortgaged or occupied.

2. The sole question for consideration is, assuming that the building in question is suitable and consistent - this is not disputed in this case - whether

the building has added to the value of the holding. If it has so added to the value of the holding that value is the value which the tenant is entitled to

claim. The method of fixing that value may be found out by referring to Section 11 of the Act which runs as follows:

When the improvement is not an improvement to which Sections 9 or 10 applies, the compensation to be awarded shall be the cost of the labour

including supervision thereof and of the materials together with other expenditure, if any, which would at the time of the valuation be required to

make the improvement, less a reasonable deduction on account of the deterioration, if any, which may have taken place from age or other cause.

3. It is admitted that neither Section 10 nor Section 13 will apply to the present case. If so, the statutory method of working out the valuation,

consists, as pointed out in the section, of the cost of labour including supervision thereof, and of the materials together with other expenditure, if

any, which would at the time of the valuation be required to make the improvement, less a reasonable deduction on account of the deterioration, if

any, which may have taken place from age or other cause. In my experience I have not come across any case where the method of valuation

suggested by Mr. Sastri has been applied, or where it was even suggested that that is the method that should be applied and not the method which

has been applied in this case. I cannot take exception to the principle applied by the lower Courts in arriving at the valuation of the house,

supported as it is by the provisions of the Malabar Tenants Improvements Act. This argument should be overruled.

4. The next argument relates to the over plantation of cocoanuts and arcanuts. It is said that admittedly there is over plantation and no value should

be given for the trees which may be brought under the category of over plantation. The lower Courts say that, in the circumstances of the case, the

tenant is entitled to the value of such trees. Section 18 says that when trees are planted in excess of the scale indicated in it, if the Court is satisfied

that in the circumstances of the particular case the land is over planted, then it may refuse the compensation. But in this case the Courts have

expressed their opinion that the over plantation should not disentitle the tenant from claiming the value of the trees. Though the section has been

enacted to protect the landlord against over plantation by tenants, it is clear that a distinct discretion is vested in the Court whose duty it is to

decide whether or not, in the circumstances of each case, there is over plantation. That duty has been discharged by the lower Courts in this case.

This argument also must be overruled.

5. The last argument relates to the value of a single tree. It is said that the tenant should be asked to cut and remove the tree and the landlord

should not have been asked to pay its value. Admittedly the tree does not stand in the serpent grove proper and therefore it falls within the

category of trees for which the tenant is entitled to claim compensation. The value given to it is a question of fact. This argument also should be

overruled. In the result, the second appeal is dismissed with costs.