

(1932) 07 MAD CK 0001
In the Madras High Court

Raghunatha Desikachariar

APPELLANT

Vs

Rangaswami Pillai

RESPONDENT

Date of Decision : 29-07-1932

Acts Referred:

Citation : (1933) ILR (Mad) 300 : (1932) 36 LW 579 : (1932) 63 MLJ 575

Hon'ble Judges : Jackson, J

Bench : Division Bench

Judgement

Jackson, J.—Suit by a ryot contesting the right of the landholder to sell his holding u/s 112, Madras Act I of 1908, for arrears of rent.

2. It is not disputed that from 1919, or fasli 1329, the rent was enhanced by 2 annas in the rupee by mutual consent. Nor is it disputed that this

enhancement was due to a rise in local prices and to repairs to the irrigation works. On the facts the landholder may or may not have had good

grounds for a suit u/s 30 of the Act. But, could he, and this is the question, enhance the rent without a suit, and independently of the Act, by

agreement with his tenant?

3. Section 24, marginally described as ""Restriction on enhancement ""runs"" the rent of a ryot shall not be enhanced except as provided by this Act,

and then Section 30 provides for a suit to that end by the landholder. So far as we can discover from the Reports it has never been argued before

a Bench, much less held, that Section 24 was otherwise than absolute and peremptory. It leaves no room for enhancement otherwise than as

provided for by the Act, as for instance, by private contract.

4. No doubt u/s 187 certain contracts made before or after the passing of the Act are invalidated, and a contract to enhance rent is not in this

category. But there is no question of invalidating a contract to enhancement made before the passing of the Act, and therefore contracts limited to

those made after the passing would not naturally fall into this dual category of contracts ""made before or after"".

5. We do not find that the omission of such contracts from Section 187 affects the plain language of Section 24, of Venkataramanachar v. Ibrahim

Sahib (1924) 20 L.W. 582. Nor do we find anything in the Act to justify the further argument that a ryot who has once given a muchilika accepting

a puttah containing an enhancement is any way debarred from contesting its legality. The language of Section 112 is very broad. On a landholder's

attempting to sell a holding for an arrear of rent u/s III, the ryot may file a suit ""contesting the right of sale"". This will allow him to raise all possible

pleas, including the plea that a portion of the arrear claimed is an enhancement not as provided by the Act, and therefore an amount which cannot

be claimed under the Act.

6. It is argued that this broad right of suit is narrowed by the terms of Sections 52 and 53; but those sections only lay down the formal prerequisites

for the process of distraint without in any way begging the question at issue between the parties. Before a landholder can distrain by summary

process he and the ryot in question must be deemed to have exchanged puttah and muchilika, Section 53, and the circumstances in which, and the

period for which, such exchange will be deemed to have occurred is explained in Sections 52 and 53. But there is no warrant for reading into these

sections that once there has been an exchange, then, for all purposes of distraint, the puttah shall be held to be valid. On the contrary as regards a

puttah of previous faslis continuing in force (the present case) it is expressly laid down at the end of Section 53(1) that it must be a valid puttah. As

a mere matter of drafting the word ""valid"" might have been inserted before puttah wherever it occurs in this Sub-section; or it might have been

omitted altogether, with the natural presumption that the puttah whether exchanged, tendered or continued must be valid; but the sense of the

section is perfectly clear. A distraining landholder must show a puttah (or prove its tender) as certifying his prima facie right to distrain; and the ryot

may then go below the surface and question whether the puttah is so valid as to justify the distraint.

7. For these reasons we agree that the judgment of the learned District Judge is correct, and the appeal must fail.

8. The appellant did not attempt to argue in this appeal that another item of the arrear claimed, a charge for taking green manure from land not in

the use or occupation of the ryot, is rent, and withdrew his claim to that amount; so we have not discussed the item.

8. The appeal is dismissed with costs.