

(1932) 10 MAD CK 0008
In the Madras High Court

Rajah Sir S.R.M. Annamalai Chettiar by his authorised agent
T. Dhanapala Chettiar

APPELLANT

Vs

Sri Rama Narasimhulu Naidu and Another

RESPONDENT

Date of Decision : 20-10-1932

Acts Referred:

Madras Estates Land Act, 1908 — Section 13(3), 55

Citation : AIR 1933 Mad 257 : (1933) 37 LW 154 : (1933) 64 MLJ 18

Hon'ble Judges : Sundaram Chetty, J

Bench : Division Bench

Judgement

Sundaram Chetty, J.—These are connected second appeals arising out of two suits filed by two ryots against the landholder for grant of

patta u/s 55 of the Madras Estates Land Act for fasli 1336.

2. The main point argued is, whether the plaintiffs have effected any improvements at their sole expense within the meaning of Section 13, Clause

(3) of the said Act in some of the dry lands in question, and whether the landholder can charge rent according to crop-war rates and second crop

rates prevailing in the village, although crops of a superior nature, such as garden and wet crops raised on such dry lands, were the result of those

improvements. According to the findings of the Lower Courts, it is clear that these lands are classified as dry, that though they were originally

poramboke, they have become patta lands of the plaintiffs, that the improvements effected by the ryots (plaintiffs) consist of wells sunk in their

patta lands at their own cost, subsequent to the passing of the Estates Land Act, and that before the sinking of these wells, only ordinary dry crops

could be raised on these lands. It is admitted that the usage in this village is to levy crop-war rates of rent, which depend upon the nature of the

crop raised and the extent of land actually cultivated. As would appear from the pattas filed (for instance, Clause (10) of the patta, Ex. C) no rent

would be charged on lands left waste or uncultivated, unless the non-cultivation is due to the neglect of the ryot.

3. In the light of these facts, the question at issue has to be determined. Section 13, Clause (3) declares, that notwithstanding any usage or contract

to the contrary, a ryot shall not by reason of making an improvement at his sole expense, become liable to pay a higher rate of rent on account of

any increase of production or of any change in the nature of the crop raised as a consequence of such improvement. In the present case, there is no

doubt that the wells sunk by the ryots in their patta lands for the supply of water for agricultural purposes would be an improvement within the

meaning of Section 3(4) of the Act. These wells are not shown to prejudicially affect any other land of the landholder. Nor is it the case of the

defendant that any money was contributed by him for the expenses of sinking these wells.

4. It is argued by the learned Advocate for the appellant, that the landholder may be deemed to have contributed something towards the

improvement by reason of the fact that he loses the chance of recovering any rent on the area of the site covered by the wells. In support of this

contention reliance is placed on the decision in *Lodd Govindoss v. Chinnappa Naidu* (1914) 28 M.L.J. 136. It is strenuously contended on the

respondents' side, that that decision has no application to the present case. In that case, the point was whether in view of the facts disclosed in the

evidence, the Zamindar was entitled to charge enhanced rates for crops grown with the aid of well water. Section 13, Clause (3) of the Estates

Land Act was held to be not applicable to that case, as the improvements were those effected prior to the Act. But the question turned upon the

validity of the contract to pay enhanced rates. In order to see whether there was consideration for the contract, some facts had to be taken to

account. It was shown that the wells were dug by the ryots in land entered in the accounts as poramboke, and that the area covered by the wells

was rendered uncultivable. The land in which the wells were dug was not the property of the ryots, but belonged to the Zamindar. That is why

Napier, J., has observed thus:

By handing over that area to the ryots for the construction of wells he has in our opinion contributed to the cost of the wells and such contribution is good consideration for the contract set up by him.

5. For the purpose of applying Clause (3) of Section 13, the important point is whether the wells in question were sunk at the sole expense of the

ryots. In order to dig a well, the first requisite is land which must serve as the site for the well. If the wells in question were dug in poramboke land,

the landholder by handing over that site for sinking the wells can be regarded as having contributed towards the cost of these improvements and

the case would be taken out of the operation of the said section. The prospective loss of rent on the area of the site covered by the wells cannot by

any stretch of the observations in *Lodd Govindoss v. Chinnappa Naidu* (1914) 28 M.L.J. 136 be deemed to be a contribution by the landholder

towards the cost of sinking the wells, and for this reason, it cannot be held, that the improvements are not those made at the sole expense of the

ryots, within the meaning of Section 13(3) of the Act. For the damage sustained on account of any such loss of rent, it seems to me, a remedy will

be available. If, by the neglect of the ryot, any plot is left waste or uncultivated, the landholder is entitled to charge rent. By a voluntary act of the

ryot, if he disables himself from cultivating a certain plot, he cannot say, that for causes beyond his control, the cultivation could not be carried on.

Though the landholder cannot prevent the ryot from making an improvement by way of digging a well in the holding, he may have recourse to the

method of charging rent even on the area of the site of the wells, at the dry rates. But in view of the bar created by Clause (3) of Section 13, he

cannot levy higher rates of rent, under the prevailing system of charging crop-war rates, if the change in the nature of the crops raised be the

consequence of the improvements effected by the ryot at his sole expense.

6. This same question was recently considered by Anantakrishna Aiyar, J., in *S. A. No. 1980 of 1927*, and that decision is clearly in favour of the

respondents' contention. It is true that the ruling in *Lodd Govindoss v. Chinnappa Naidu* (1914) 28 M.L.J. 136 was not considered in that

decision. But, in my view, that ruling does not materially help the appellant in the present appeals.

7. I therefore confirm the findings of the Courts below on this point.

8. As regards the memoranda of objections, I see no substance in them. The lands Nos. 592 and 593 have been classed as wet, and treated so in

the previous pattas. They must be presumed to be wet lands, liable to be charged accordingly, until the ryots resort to an appropriate remedy and

get the classification changed or assessment reduced.

9. In the result, these appeals and the memoranda of objections are dismissed with costs.