

(1991) 02 MAD CK 0034
In the Madras High Court
Case No : Writ Appeal No. 662 of 1988

Ramalingam

APPELLANT

Vs

The District Revenue Officer, Thanjavur Dist. and others

RESPONDENT

Date of Decision : 19-02-1991

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 9

Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969 — Section 16, 3(2)

Citation : AIR 1992 Mad 97 : (1992) 2 LW 115 : (1992) 2 LW 114

Hon'ble Judges : Dr. A.S. Anand, C.J;Raju, J

Bench : Division Bench

Advocate : N. Ganapathy, for the Appellant; Govt. Pleader and N. Varadarajan, for the Respondent

Judgement

Raju, J.—The above appeal has been filed against the order of a learned single Judge dated 9-3-1988 whereunder the writ petition filed by

the appellant seeking to quash the order of the first respondent dated 12-4-1980 came to be dismissed.

2. The appellant filed an application before the third respondent under the provisions of the Tamil Nadu Agricultural Lands Record of Tenancy

Rights Act, 1968 and the rules made thereunder to get himself recorded as a cultivating tenant in respect of an estent of 4.83 acres of land

belonging to the fourth respondent. By an order dated 5-5-1975 the third respondent ordered to register the name of the appellant as the

cultivating tenant, which on appeal by the fourth respondent before the second respondent came to be set aside by order dated 24-12-1975. The

appellate authority, while setting aside the order of the third respondent, remitted the matter back to the third respondent for fresh enquiry and

disposal.

3. In the mean time, the fourth respondent filed O.S. No. 325 of 1974 on the file of the District Munsif, Kumbakonam against the appellant praying

for permanent injunction contending that the appellant who was merely a pannai agent as evidenced by a specific agreement entered into between

the parties and that even the said status has been subsequently terminated. The appellant contested the suit, and ultimately by a judgment and

decree dated 25-11-1975 the trial Court held that the appellant was not a cultivating tenant and was merely a pannai agent and his services as such

were also terminated and factually the fourth respondent was in possession of the suit property as on the date of the suit. The judgment of the trial

Court was also confirmed in A.S. No. 18 of 1976 filed by the appellant before us by judgment and decree dated 2-3-1977 by the Sub Court,

Kumbakonam. The said proceedings became final between parties once they are not challenged further.

4. While matters stood thus, when the third respondent took up the remanded proceedings for consideration, the judgments of the civil court were

pressed into service by the fourth respondent to contend that the appellant was merely a pannai agent. The third respondent by his proceedings

dated 31-8-1978 came to the conclusion that the appellant was the actual cultivator of the lands and directed his name to be recorded as a

cultivating tenant. While doing so, the third respondent stated in the very order that the judgments of the Civil Court are not binding on him, and,

therefore, they need not be considered. On appeal by the fourth respondent, the appellate authority failed to refer to the judgments of the Civil

Court, and in a summary order dated 12-2- 1979 rejected the appeal. Thereupon the fourth respondent filed a revision before the first respondent

and by an order dated 19-4-1980 the revisional authority dealt with the matter in considerable detail taking into account the judgments of the civil

court as well as other materials made available by the appellant before the authorities and ultimately came to the conclusion that the appellant was

merely a pannai agent not doing any field work and that even such a status had been put an end to properly and the orders of the authorities below

were set aside. It is the said order of the revisional authority that has been called in question by the appellant in the writ petition before this Court.

5. The learned single Judge declined to interfere with the order of the revisional authority on the ground that it was a well considered order taking into account all relevant materials on record and that the findings of respondents 2 and 3 are not supported by any independent witness or material.

Aggrieved, the above writ appeal has been filed.

6. Mr. N. Ganapathy, learned counsel appearing for the appellant contends that the orders of the Civil Court are not binding upon the authorities

functioning under the Act, that the authorities functioning under the Act have exclusive jurisdiction to decide about the rights of parties claimed

under the Act and that in any event the judgment of the Civil Court having been rendered subsequent to the proceedings, the same cannot be given

any credence in adjudicating the rights of parties under the provisions of the Act. Mr. N. Varadarajan, learned counsel appearing for the fourth

respondent, while reiterating the reasoning of the learned single Judge referred to the decision of this Court in *Periathambi Goundan Vs. The*

District Revenue Officer, Coimbatore and Others, , Balasubramaniam S. v. Shamsu Thalreez (1985) 98 MLW 536 and *Palanisamy Gounder v.*

Chellammal (1987) 100 MLW 367 and contended that the findings of the civil court in a proceedings of the kind in the present case are relevant

and cannot be ignored. The learned counsel further submitted that the revisional authority has rightly taken into account all the relevant materials

and came to the right conclusion, and inasmuch as the learned single Judge of this Court also concurred with the conclusions of the revisional

authority, it calls for no interference in this appeal.

7. After careful consideration of the respective submissions of the learned counsel on either side, we are of the view that the submissions on behalf

of the appellant do not merit our acceptance. It cannot be disputed that the competent civil court in a suit for permanent injunction between the

parties, after trial and consideration of the relevant materials produced came to a finding that the appellant was merely a pannai agent, that even

that status as shch had been put an end to and it was really the fourth respondent, the landlord who was in possession of the property and the

appellant was not a cultivating tenant. That being the position as noticed by the revisional authority as well as by the learned single Judge, no

independent material has been produced by the appellant to substantiate his

plea to the contrary that he was a cultivating tenant. The manurs cards and the adangal extracts etc., produced were properly dealt with and have been found to be neither acceptable nor sufficient by the competent authority, the first respondent. The said findings also found favour of acceptance by the learned single Judge. That being the position, we have not been taken through many vital or relevant materials which warrant our interference with such findings of fact in this appeal, and we see no reason to interfere with the findings rendered in this behalf by the first respondent as well as by the learned single Judge.

8. As far as the relevance of the findings of the Civil Court in respect of the proceedings under the Act is concerned, the matter is not *res Integra*.

A Full Bench of this Court in a decision reported in *Periathambi Goundan Vs. The District Revenue Officer, Coimbatore and Others*, has taken the

view that in all matters which may arise incidental to the determination of the matters mentioned in S. 3(2) of the Act, the Record Officer or the

appellate or revisional authority cannot be said to have exclusive jurisdiction and with reference to such matters, the jurisdiction of the civil court

cannot be said to have been barred or ousted u/S. 16-A of the Act. In *Balasubramaniam v. Shamsu Thal-reez* (1985) 28 MLW 536, a Division

Bench of this Court had occasion to consider the question once again and held that the Civil Court can go into the jurisdictional issues, which are

not within the exclusive jurisdiction of the authority. The Division Bench also came to the conclusion that it would be a different matter if the matter

had gone to the civil court and a decision had been rendered by the civil court on the questions raised anterior to the decision of the authority under

the Act, and that in such an event the findings of the civil court cannot be ignored. In *Palanisami Gounder v. Bhallammal* (1987) 10 MLW 367

Nainar Sundaram, J. who was a party to the Division Bench judgment reported in *Balasubramanian S. v. Shamsu Thalreez* (1985) 98 MLW 536

had occasion to consider the question in the form in which it has been raised before us on behalf of the appellant. The learned Judge declared the

position that the authorities functioning under the Act cannot eschew from consideration the decisions of the civil court and that they are as much

relevant and vital as any other material in adjudicating the rights of parties under the provisions of the Act. In *Kuruppanna Gounder v. Ammal*

Appan (1983) 101 MLW 194 Nainar Sundaram, J. in a second appeal arising out of a suit for injunction had occasion to consider the issue in the

light of the earlier judgments and declared the position that unless the primary relief asked for is one of declaration of the status of a party as a

cultivating tenant, a suit for injunction cannot be said to be not maintainable in a civil court in which incidentally there could be a consideration and

finding with reference to the nature and character of possession and status and possession of the parties.

9. So far as the facts of the case before us are concerned, though the proceedings under the Act in question have been initiated in 1974, it could

not be legitimately contended that there was an earlier and final adjudication by the competent authority exercising jurisdiction under the Act prior

to the judgments of the Civil Court. Thus, in our view, the findings rendered by the Civil Court in proceedings between the parties have been rightly

referred to and relied upon by the first respondent to reject the plea of the appellant that he was a cultivating tenant in respect of the lands in

question. We see no reason to interfere with this finding of the first respondent which, as referred to already, has found acceptance with the learned

single Judge. Consequently we see no merit in the writ appeal and the same shall stand dismissed, but in the circumstances without costs.

10. Appeal dismissed.