
(1914) 08 MAD CK 0032
In the Madras High Court

Ravulapati Papi Reddi

APPELLANT

Vs

Nanduru Peda Venkatacharyulu

RESPONDENT

Date of Decision : 28-08-1914

Acts Referred:

Madras Estates Land Act, 1908 — Section 3(2)

Citation : AIR 1915 Mad 735 : (1914) 27 MLJ 567

Judgement

1. The first point for decision is one of jurisdiction which turns on whether the Agraharam in which the suit lands lie is an "estate" within the definition of Section 3(2) d of the Madras Estates Land Act. If it is so, the jurisdiction of the Civil Court is ousted; but this has to be established by the party who seeks to oust the jurisdiction, in this case, the appellant (Defendant). He has to show in this case :-

1. That the original grant by the Zamindar was of the land revenue alone.
 2. That the original grantee or grantees were not at the time of the grant possessed of the Kudivaram of the village.
 3. That the grant was confirmed or recognised by the British Government.
2. There is no question about (3) and as regards (1) the circumstances in evidence justify the inference that the Zamindar only granted what he was himself possessed of: i.e., the land revenue only. The difficulty is about (2). Appellant's Vakil admits that he has adduced no evidence on the point but he contends that the burden of proof has been wrongly thrown upon him. We must hold, following the decision in the latest case in Jagannathacharyulu v. Kutumbarayadu (1911) 27 M.L.J. 283 that in deciding whether a village falls within the scope of Section 3(2) d of the Madras Estate Land Act there is ab initio no presumption that the grantees were

not possessed of the Kudivaram at the time of the grant. This has to be proved by the party alleging it; no doubt facts might be proved from which the desired inference could be drawn and in the case of an old grant like the present, no other means of proof would probably be available. But this has not been done in the present case; and we hold the decision of the lower appellate Court on the question of jurisdiction to be correct.

3. As regards the right to eject, the findings of the lower appellate Court conclude the case.

4. The second appeal is dismissed with costs.