(1926) 07 MAD CK 0014

In the Madras High Court

Sangili Nadan APPELLANT

Vs

Subramania Pillai RESPONDENT

Date of Decision : 26-07-1926

Acts Referred:
Madras Estates Land Act, 1908 — Section 126

Citation : AIR 1927 Mad 1141 : 103 Ind. Cas. 434

Hon'ble Judges : Devadoss, J

Bench : Division Bench

Judgement

Devadoss, J.—The first point urged by Mr. Ramachandra Aiyar for the appellant is that the sale is a fraudulent one inasmuch as a property worth Rs. 300 to Rs. 400 was sold to recover arrears of rent amounting only to Rs. 3 -11-5. The land sold was no doubt worth considerably more than the amount of arrears due from the defendant. Reliance is placed on Section 126, Estates Lands Act for the contention that the portion of the holding brought to sale by the landlord should be as nearly as possible equal in value to the amount of arrears due and costs. But Section 120 directs that no such lot shall, except with the consent of the landholder, be less than a revenue field.

2. It is clear from the evidence that what was brought to sale was a revenue field, and, therefore, it cannot be said that the landlord was guilty of fraud in bringing to sale a field worth Rs. 300 to Rs. 400 for arrears of a trifling amount.

3. The next contention is that there was no exchange of patta and muchilika between the landlord and the tenant and, therefore, the evenue sale was invalid. u/s 53, exchange of patta and muchilika is necessary to enable the landlord to distrain the property of a ryot or to bring his holding to sale under Ch. 6, Estates Land Act. But it is unnecessary that there should be an exchange of patta and muchilika every year. If patta was tendered and muchilika exchanged and that patta is in force, the landlord is entitled to proceed under Ch. 6. Under the Rent Recovery Act 8, 1865, no doubt exchange of patta and muchilika was necessary in order to enable the landlord to get the rent from the tenant, and unless the

landlord tendered patta to the tenant before the end of the fasli he could not recover the rent for that fasli. But a change has been made in the Estates Land Act 1 of 1908, and u/s 53 it is sufficient if there was an exchange of patta and muchilika,'' and if that patta be in force at the time when the distraint takes place or the holding is brought to sale, Mr. Ramachandra Aiyar''s contention is that unless the patta be a permanent patta there ought to be an exchange of patta and muchilika in every fasli so that the landlord may proceed under Ch. 6. There is no warrant for such a contention and Section 53 is not Capable of such a contention. The only condition required by that section is that the landlord should have exchanged patta and muchilika with the ryot or he should have tendered him such a patta as he was bound to accept, or that the patta and muchilika should be in force. In this case there is evidence that there was an exchange of patta and muchilika and that that patta was in force on the date of the revenue sale. That being so the contention of the appellant fails. There is no other point in the case. The second appeal fails and is dismissed with coats.