

(1945) 02 MAD CK 0030
In the Madras High Court

S.A.S.R.M. Ramanathan Chettiar and Others	APPELLANT
Vs	
Bakshi L. Nagasami Chettiar	RESPONDENT

Date of Decision : 13-02-1945

Acts Referred:

Citation : AIR 1945 Mad 301 : (1945) 58 LW 172 : (1945) 1 MLJ 238

Hon'ble Judges : Wadsworth, J

Bench : Division Bench

Judgement

Wadsworth, J.—The only question in this appeal is whether and to what extent the appellants are entitled to relief under Madras Act IV of

1938 in respect of two mortgage debts. It appears to be established that the family of the appellants had on the relevant dates a saleable interest in

agricultural property. The first appellant is the father of the other appellants who are minors. They are Nattukottai Ghetties and admittedly their

properties are all joint and the banking business conducted by the first appellant is an ancestral business with the vilasam S.A.S.R.M. In the plaint it

was denied that any of the defendants were agriculturists. The first defendant in his written statement merely traversed the denial and claimed that

the defendants were entitled to relief under Madras Act IV of 1938. The other appellants adopted his written statement but did not make out any

special case for themselves. In the lower Court attention was devoted only to the question whether the properties belonging to the family, in

respect of which there was an assessment to property tax, were of such a rental value as to exclude the assessee from the benefits of the Act under

proviso (c) to Section 3. There was no special case made out on behalf of the minor appellants as distinct from the case of the first appellant. It is

conceded that the properties in respect of which the assessment was levied are joint family properties and that the first appellant is the manager of the family. The two certificates on which the plaintiff relies for proof of the assessment are Exs. P-11 and P-12. Both these certificates are to the effect that Mr. S.A.S.R.M. Ramanathan Chettiar has been assessed to property tax as stated therein. On these materials the appellants contend that only the first defendant (first appellant) is disqualified from obtaining relief under the Act and that the other members of the family should get the benefit of the division of the debt contemplated u/s 14 of the Act. The appellants rely on the decision in the case of Muthiah Chettiar Vs. N.M. Rayalu Ayyar, Nagaswami Ayyar and Co. and Others, . That was a case in which the joint family properties were assessed to property tax. The assessment was in the name of the de facto manager described by his name alone and without the family vilasam which amongst the Nattukottai Chettiars is a normal indication that the person is acting on behalf of the family. We held on those materials that the municipal authorities must be presumed to have assessed the person so named in his individual capacity and not as representing the joint family. In the present case we have the assessment of the joint family properties in the name of the father and the manager, the other members of the family being minors, and the person assessed is described by the well-known family vilasam which is also the vilasam of what was admittedly the joint family firm. Having regard to the importance attached to such a description in the Nattukottai Chettiar community, we are of opinion that the description of the first appellant, as found in the municipal certificates which are presumably based on the municipal registers, is a sufficient indication that the assessment made in respect of joint family properties was imposed upon the assessee as representing the joint family. In the result we find that all the appellants are disqualified from obtaining relief under the Act. We dismiss the appeal with costs of plaintiff-respondent.