

(1958) 02 MAD CK 0033

In the Madras High Court

Case No : C.M.P. No. 310 of 1958 in S.A. No. 702 of 1957

Seethalakshmi Ammal

APPELLANT

Vs

G. Krishnaswami Rao

RESPONDENT

Date of Decision : 19-02-1958

Acts Referred:

Citation : (1958) 02 MAD CK 0033

Hon'ble Judges : Ramaswami, J

Bench : Single Bench

Advocate : R. Rangachari, for the Appellant; V. Vedantachari and T. Rangaswami Iyengar, for the Respondent

Judgement

Ramaswami, J.—This is an application for stay of passing of the final decree in O.S. No. 190 of 1955 on the file of the Court of the District

Munsif Koilpatti, pending Second Appeal No. 702 of 1957. The facts necessary for the disposal of this petition are as follows:

The predecessors in title of G. Krishnaswami Rao, who is the respondent in this application, sold the suit property which originally formed part of

an estate and consisted of pannai lands and ryoti lands, to the predecessors in title of the petitioner, appellant Seethalakshmi Ammal. The purchase

price was to be paid in easy installments. The document of sale specifically creates a charge on the pannai lands. Subsequently, under the Madras

Estates (Abolition and Conversion into Ryotwari) Act XXVI of 1948, For the pannai lands ryotwari pattas were granted and for the ryoti lands

compensation was given. I may point out that the compensation which was at one time even assailed as expropriatory in nature is considerably

small. Part of the properties now is pannai lands for which pattas have been issued. It is in these circumstances, for the defaulted installments

constituting part of the purchase money, this Krishnaswami Rao filed a suit and has obtained a preliminary decree.

2. This application for stay is filed by the defeated judgment-debtor who has preferred this appeal, and, her contention is that the vendor can

proceed against the compensation amount in regard to ryoti lands only. This is on the foot of the argument that a charge-holder can work out his

rights, only against the statutory compensation payable under the Act.

3. I am unable to countenance this argument which seems to be wholly without substance because the pannai lands were held by the land, owner

as part of his private property and for which he paid peishkush. By reason of the Abolition Act nothing has been taken away from him and for the

pannai lands instead of paying peishkush he has to pay now ryotwari assessment and he holds lands under ryotwari pattas. In fact this was the

decision in C.M.P. Nos. 8017 etc., of 1950 and 1032 of 1951 on the file of this Court dated 22nd August 1952. There the argument which Mr.

Rangachari is now urging was pressed by the learned Advocate Mr. Vedantachariar. The Bench held that practically there has been no change by

reason of this Act XX in so far as pannai lands are concerned and instead of the burden of peishkush there is the burden of ryotwari assessment

and surely the zamindar cannot both have the lands and also ask for the income from the lands to be included in the computation of the basic

annual sum, for, the ownership of the lands subject to assessment continues to be with the zamindar and that therefore there is no real grievance on

that account and that it is not as if the zamindars were holding these private lands revenue-free at any time and a new burden has been imposed by

the Act.

4. In addition, on the same lines there is the decision of this Court in Rangiah Chetti v. Andhra State (1955) 1 M.L.J. 516= 67 L.W. 821.

5. It is unnecessary to buttress the simple position by means of citations because S. 20 itself lays down in the proviso:

unless it relates to the private land of the landholder within the meaning of S. 3, Cl. (10) of the Estates Land Act....saved.

6. Transaction in respect of private lands are saved. In other words, the Government has in no way put an end to or modified or altered the mutual

rights between the parties in regard to pannai lands over which charges have

been created and transactions have been entered into by the landholder. The patta lands have become in any event substituted security for the pannai lands. In these circumstances, there are no merits whatever in this application. This is verily a new way of paying old debts and such a barefaced attempt to defraud a vendor of his unpaid purchase money deserves no encouragement at our hands. It is hereby dismissed. No order as to costs. Expedite the Second Appeal.