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**(1964) 07 MAD CK 0048**

**In the Madras High Court**

**Case No : C.R.P. No's. 1307 to 1312 of 1963**

Smt. Sakuntala and others

APPELLANT

Vs

Thandukaran and others

RESPONDENT

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**Date of Decision :** 20-07-1964

**Acts Referred:**

**Citation :** (1965) ILR (Mad) 644

**Hon'ble Judges :** Kailasam, J

**Bench :** Single Bench

**Advocate :** K.S. Sankara Sastri, for the Appellant; R.G. Rajan, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

Kailasam, J.—This batch of revision petitions is filed against the order of the Revenue Divisional Officer, Vridhachalam, holding that the respondents in the civil revision petitions are cultivating tenants evicted unlawfully from the lands and directing the petitioners to put them in possession. The lands in question belonged to one Nattar Elaya Pillai. By a settlement in 1960, he transferred the items in Petitions 5, 6, 8, and 9 in the lower Court to his sister's daughter, Sakuntala. The items in Petitions 6, 7 and 10 in the lower Court belonged to Elaya Pillai himself. It is the case of the respondents that they were cultivating tenants under Elaya Pillai or his sister's daughter Sakuntala for some years and that they were wrongfully dispossessed within two months before the date of the petitions. The Court below has found that the respondents in these petitions were cultivating tenants and that they were wrongfully dispossessed by Elaya Pillai or by his sister's daughter, Sakuntala. Mr. Sankara Iyer, Learned Counsel for the petitioners, submitted that the respondents were not cultivating tenants under the Act, for, after the Cultivating Tenants Protection Amendment Act, 1956, came into force, S. 4 (B) of the Act required that in every case of tenancy agreement between the cultivating tenant and the landlord, a lease deed shall be executed in triplicate in the prescribed form within a reasonable time after the

commencement of such tenancy, giving all the particulars of tenancy, and the agreement shall be signed both by the landlord and the cultivating tenant. The section also provides for retention of one copy by the landlord and another by the tenant, lodging the third in the taluk office. If the landlord or the cultivating tenant refused or delayed the executing of the lease deed unreasonably, it shall be open to the other party to lodge the lease deed in the Taluk Office, with a declaration that the other party refused or delayed unreasonably to execute it. The Revenue Divisional Officer was also empowered to impose a penalty, extending upto Rs. 50, on the party refusing to sign the lease deed. The Learned Counsel submitted that S. 4-B required that all tenancy agreements after 1956 shall be executed in triplicate form. It also provided for a penalty to be imposed in cases of refusal by one of the parties. From these conditions, the Learned Counsel submitted that all tenancy agreements after 1956 can only be in this particular form, and in no other manner, and if there was no express tenancy agreement as provided under S. 4-B, the right of a cultivating tenant would not be conferred on the tenant. I am unable to accept this contention. S. 2 (a) defines "cultivating tenant" as follows : "cultivating tenant" in relation to any land means a person who carries on personal cultivation on such land under a tenancy agreement, express or implied, and includes any person who continues in possession of the land after the determination of the tenancy agreement." If, after 1956, the procedure laid down in S. 4-B is not followed, it can be contended that there is no express agreement. But if a tenant is allowed to carry on personal cultivation of land by the landlord on the payment of rent, it cannot be said that even impliedly he is not a cultivating tenant. But a tenant who sets up that he is a cultivating tenant by an implied agreement will have to prove implied agreement. A reading of the section does not support the contention of Mr. Sankara Iyer that if a tenant is to have the rights of the cultivating tenant, it can only be by executing a lease deed in the form prescribed in S. 4-B.

2. In all these petitions, there was no express agreement, but there can be no doubt that they were cultivating tenants, by implied agreement. The Court below found that they were tenants actually cultivating the land. There is no reason for not accepting the finding of the Court below.

3. Learned Counsel submitted that in petitions 8 and 9, the respondents have not clearly stated that it was Sakuntala that evicted them from the lands concerned in those petitions but referred only to Elaya Pillai as the person that evicted them. It was the case of the respondents that Elaya Pillai settled the properties on Sakuntala and that he was in actual management of the properties. The eviction by Elaya Pillai was only on behalf of Sakuntala and there is no reason why the tenants should not get the benefit under the Act in these cases also. There are no grounds for interfering with the order of the Court below. These petitions are dismissed with costs in C.R.P. 1307 of 1963.