
(1922) 11 MAD CK 0013
In the Madras High Court

Sri Mahant Prayag Dossjee Varu

APPELLANT

Vs

Sarangapani Chetty and Others

RESPONDENT

Date of Decision : 08-11-1922

Acts Referred:

Madras Estates Land Act, 1908 — Section 146, 147

Citation : 86 Ind. Cas. 647 : (1923) 17 LW 361

Hon'ble Judges : Ramesam, J; Oldfield, J

Bench : Division Bench

Judgement

1. The plaintiff in this case in 1907 brought the suit holding from one Gurunatha Reddi. Since then it is in evidence that Gurunatha Reddi continued

to pay rent; receiving it from the plaintiffs. But Gurunatha Reddi continued to be the pattadar. For the rent of Faslies 1322 and 1323 the second

defendant the landlord, here the appellant, brought the holding to sale as the rent had not been paid; and the first defendant was the auction-

purchaser. The lower Appellate Court has held that the sale was invalid because notice of it was given to Gurunatha Reddi and not to the plaintiffs.

2. The decision must, in our opinion, turn on the construction of Sections 146 and 147 of the Madras Estates Land Act and on whether those

sections can apply, where the transfer of a holding has occurred, as the transfer was, as in this case, before the Act. There may be some doubt as

to the law before 1908; and there is authority in *Ekambara Ayyar v. Meenatchi Ammal* 27 M. 401 and *Peram Narasigadu v. Machireddi* 8 Ind.

Cas. 387 : (1910) M.W.N. 563 : that the landlord was bound to serve notice on the real owner of the holding or the existing pattadar or his

transferee, before he could bring it to sale, and failed to serve the right person at his own risk. Section 147 was, it must be presumed, intended to

terminate any doubt there was on that point and to lay down that the landlord is entitled to continue to deal with the existing pattadar; until notice of

transfer is given him. It seems to us, that, as the second defendant contends, Section 147 is applicable to transfers made before the commencement

of the Act, and does not determine any substantive right. That moreover, is not; excluded, in our opinion, by the actual language of Section 146.

We read the section as laying down simply that, when there has been a transfer, whether before the commencement of the Act or after it, the

transferee will be entitled to be impleaded in proceedings, if he gives the notice which Section 146 prescribes; but that, until he does so, the existing

pattadar will still be the person with whom the landlord has to deal.

3. The second appeal is allowed, and the suit is dismissed with costs, throughout.