

(1944) 08 MAD CK 0023
In the Madras High Court

Srila Sri Ambalavana Desika Pandara Sannathi, Trustee of
Peria Avidaiar Koil Devasthanam

APPELLANT

Vs

Arumugam Ambalagaran and Another

RESPONDENT

Date of Decision : 08-08-1944

Acts Referred:

Citation : AIR 1945 Mad 26 : (1944) 57 LW 497

Hon'ble Judges : Horwill, J

Bench : Division Bench

Judgement

Horwill, J.—These revision petitions concern a dispute between an inamdar and his tenants, who have admittedly under the amendment of 1936 acquired occupancy rights. The landlord, who is the petitioner here, put in an application to the Deputy Collector of Pattukottai Division u/s 74, Estates Land Act, asking the Deputy Collector to take action under that section for the appraisal of the crop and division of the produce. The procedure to be adopted by the Collector u/s 75 upon receiving such an application was followed; and the Deputy Collector deputed a Revenue Inspector to make the necessary inquiry. The ryots, in written statements of their claim, stated that they had not been paying rent and that none was due from them. If an objection is taken during such inquiry before the deputed officer that the rent is not payable by division or appraisal or that no rent is payable, the officer so deputed has no authority to consider that question himself. He has merely to record the objection; and if he has made his award, he has to submit it to the Collector along with a report of his proceedings, and if an objection is specifically raised, that rent is not payable by division or appraisal or that no rent at all is payable, the objection also has to be forwarded. The Collector has then to hear any objections, and after further inquiry, if necessary, has to pass orders. Such orders are final, except that if an objection that no rent is payable or that it is not payable by division or appraisal is raised, the order of the Collector is subject to the result of an appeal to the District Court. No objection was raised before the Deputy Collector, and he confirmed the award of the Revenue Inspector. No appeal was filed in the

District Court. The ryots however took the matter to the District Collector; and asked him to exercise his revisional jurisdiction u/s 205 of the Act. The District Collector set aside the award saying:

But it appears from the report of the Revenue Inspector who passed the award that he had accepted (without taking evidence) the fact that there had never been any division of crops in the village and based his award on the rate prevailing in an adjacent village. Such a procedure is absolutely unauthorized under the Act and the Revenue Divisional Officer should not have accepted an award based on this. He has powers under the Act to make further enquiry and should have used them in spite of the fact that there was no objection from either side.

2. The main question to be decided in these petitions is whether the District Collector had jurisdiction to pass the order he did u/s 203. That would depend upon the question whether the Deputy Collector in passing his order was a Court or not. This Court has jurisdiction to interfere in revision u/s 115 only in the case of Courts subordinate to the High Court. If the Deputy Collector passed his order as a Court, then he did so as a Court subordinate to the District Court; and as the District Court is subordinate to this Court, this Court would have jurisdiction to interfere u/s 115, from which it would follow that the District Collector had no jurisdiction to interfere u/s 205. Mr. A.V. Narayanaswami Aiyer relies on *Raghrmadha Patro v. Govinda Patro* AIR 1928 Mad. 1032 in which it was held that the High Court had no jurisdiction to interfere with an order of the Board of Revenue passed u/s 205 if the order with which the Board interfered was not the order of a Court. In the case under consideration, there can be no doubt that with regard to a part of the matter in dispute between the landlord and the tenant, the Deputy Collector did act as a Court; because on that particular point an appeal lay to the District Court. That part was with regard to the question whether rent was payable at all and whether it was payable by division or appraisement. In such cases it was held in *Prayag Dossjee v. Chinna Rama Naidu* AIR 1935 Mad. 309 that this Court had jurisdiction and that the District Collector had not. The learned Judges in that case considered the Pull Bench decision in *Raghrmadha Patro v. Govinda Patro* AIR 1928 Mad. 1032 and said:

We do not think that the authority in *Paramaswamy Aiyengar v. Alamelu Nachiar Ammal* AIR 1919 Mad. 510 and *Ramaswami Goundan v. Kali Goundan* AIR 1919 Mad. 672 has been in any way affected by the Full Bench in *Raghrmadha Patro v. Govinda Patro* AIR 1928 Mad. 1032 or by the decision of a larger Full Bench in *Raja of Mandasa v. Jagannayakalu* AIR 1932 Mad. 612. The two Full Bench decisions were in cases in which the High Court considered the question of revising proceedings of the Board of Revenue under Chap. 11, Estates Land Act, which deals with Survey Settlement and record of rights. The basis of the decision in *Raja of Mandasa v. Jagannayakalu* AIR 1932 Mad. 612 was that in exercising their functions under Chap. 11, the revenue authorities were not acting as Courts.

3. The learned Judges went on to say that in the matter they were considering the revenue authorities were acting as Courts and that therefore Section 115 applied and the High Court had jurisdiction to interfere with the decision of the Revenue Officers. With regard to the other part of the District Collector's order, namely, that dealing with the actual rate payable, it would seem that as no appeal lay to the District Court, the Revenue Inspector's decision, which was confirmed by the Deputy Collector, was not the decision of a Court and could, therefore, be interfered with in revision u/s 205. The only other question is whether this Court should interfere in revision. It has been argued with a great deal of substance that the ryots were ignorant of the procedure to be adopted by them and that all that the District Collector did was to give them another opportunity of putting forward their case, which would be impossible if the District Collector's order be not upheld. While seeing the force of this argument, I feel that if this petition is dismissed, a difficulty will arise in subsequent proceedings; because if the matter is taken to the District Court u/s 75 (8)(e), it would be open to the landlord to contend that the new order passed by the Deputy Collector in accordance with the direction of the District Collector was without jurisdiction and should therefore be set aside. I, therefore, feel that no other course is open to me but to declare that the order of the District Collector is without jurisdiction and that the Deputy Collector has therefore no jurisdiction to consider any objection raised by the ryots that no rent is payable or is payable by division or appraisement. The respondent will pay the costs of the petitioner in these proceedings.