

(1931) 01 MAD CK 0016
In the Madras High Court

Srimath Jagathguru Sringeri Sri Satchithanantha
Chandrasekhara Bharati Swamigal by Agent T.C. Nataraja
Mudali

APPELLANT

Vs

C.P. Duraiswami Naidu (dead) and Others

RESPONDENT

Date of Decision : 06-01-1931

Acts Referred:

Transfer of Property Act, 1882 — Section 117

Citation : AIR 1931 Mad 659 : (1931) ILR (Mad) 900 : (1931) 34 LW 185 :
(1931) 61 MLJ 648

Hon'ble Judges : Reilly, J; Anantakrishna Aiyar, J

Bench : Full Bench

Judgement

Reilly, J.—In this case the plaintiff has sued to recover from the defendant about six acres of land in" the village of Chinnamapet with

damages. The plaintiff granted a lease of the whole village of Chinnamapet to the defendant as an inamdar for eight years in 1911. After the expiry

of that term the defendant surrendered the whole village to the plaintiff with the exception of the six acres with which we are now concerned. On

these six acres during the period of his lease the defendant had himself planted casuarina trees, and he claimed the right to remain in possession of

that area as an occupancy ryot. The District Munsif of Sholinghur, who heard the suit, found that the defendant was not a ryot but a trespasser and

made a decree for the plaintiff for the recovery of possession with Rs. 20 as damages and subsequent mesne profits to be fixed later. Against that

decree both the plaintiff and the defendant appealed to the District Judge, the plaintiff claiming that the damages awarded to him were insufficient

and the defendant objecting to the whole decree. It has been found by the District Judge that the village of Chinnamapet is an ""estate"" under the

Madras Estates Land Act, and that finding has not been disputed before us. It is also not now disputed that the land upon which the defendant

planted his casuarina trees is ryoti land. The District Judge found that the Civil Court had no jurisdiction in this case and returned the plaint for

presentation to a Revenue Court. Against that order the plaintiff now appeals.

2. The only contention which has been urged before us on his behalf is that the defendant, although he has been occupying ryoti land in an "estate

under the Madras Estates Land Act, is not a ryot because he has not held the land for the purpose of agriculture, and, that being so, the jurisdiction

of the Civil Court is not excluded. It is not suggested that the defendant holds his land for any other purpose than for his casuarina plantation, and,

as was decided recently by my learned brother and Wallace, J. in *Venugopala Rice Mill v. Rajah of Pittapuram* ILR (1929) 53 M. 367 : 59

M.L.J. 74, even if a man holds ryoti land in an "estate" under the Madras Estates Land Act, he is not a ryot unless he holds it for agricultural

purposes. The question we have to decide in this appeal is whether growing casuarina trees, that is trees for fuel, is an agricultural purpose so as to

make the person who holds the land for that purpose a ryot within the meaning of the Estates Land Act. It has been pointed out to us for the

defendant that, after he had surrendered the rest of the village to the plaintiff, the plaintiff accepted rent from him for the land on which these

casuarina trees stand for one fasli and gave him a receipt, Ex. I, which refers to "payment of kist made by the ryot" and that the plaintiff also sent

him a notice, Ex. B, on the following day saying that he might retain the land up to the end of the following fasli and should then surrender it,

incidentally mentioning that the defendant was "cultivating it and had planted casuarina trees thereon". I do not think we can decide this question,

whether the growing of casuarina trees as fuel is an agricultural purpose, on the language used by the plaintiff either in Ex. 1 or in Ex. B. It is a legal

question which affects the jurisdiction of the Civil Courts, and that can certainly not be determined by the language which the plaintiff happens to

have used in those documents.

3. I agree with the remark of Shephard, J., in *Murugesu Chetti v. Chinnathambi Goundan* ILR (1901) 24 M. 421 that a man who plants or

maintains trees for firewood is not in ordinary parlance an agriculturist. If we

take the strict meaning of "agriculture" according to its derivation", it means the cultivation of a field, the cultivation of an open space, as opposed to horticulture, the cultivation of a comparatively small enclosed space. The cultivation either of the field in agriculture or of the garden in horticulture cannot be confined, I think, to any particular product. With great respect I do not agree with the opinion of Bhashyani Aiyangar, J., in *Murugesu Chetti v. Chinnathambi Goundan* ILR (1901) 24 M. 421 that agriculture implies production of things useful as food for man or beast or other products fit for human consumption by way of luxury. That appears to me to be too narrow an interpretation. Still less do I agree with the opinion expressed by Sadasiva Aiyar, J., in *Rajah of Venkatagiri v. Ayyappa Reddi* ILR (1913) 38 M. 738 : 25 M.L.J. 578, that agriculture is confined to the production of grain crops. I can see no reason why the cultivation in open spaces of such useful products as cotton, jute, flax and hemp should not be agriculture. Indeed, I think agriculture cannot be defined by the nature of the products cultivated but should be defined rather by the circumstances in which the cultivation is carried on. In some cases it has been suggested that agriculture is confined to tillage. I think it can easily be shown that agriculture was carried on in this world before ploughs were invented. In the present day in many places cultivation is done with spades and not with ploughs. But the planting of timber or firewood trees, which are to stand on the land for a considerable number of years forming plantations or woods or forests, appears to me to be opposed to the idea of agriculture, the cultivation of an open space. It is true that for the purpose of growing trees in a plantation it may be necessary first to prepare the land. Later on it may be necessary to protect and water the young plants. Still later it may be necessary to thin out the plantation. But, when the land is covered with trees which have to stand on it for a number of years, sometimes as long as a century, during most of which period the land itself is untouched, to describe that as agriculture appears to me inappropriate. To my mind it is something very different from the cultivation of a field or of an open space. It may be noticed that in AIR 1924 247 (Privy Council) their Lordships of the Privy Council approve of the opinion expressed by two learned Judges of the Allahabad High Court that land let for a grove was not let for an agricultural purpose. It

happened that the case then under consideration was one arising under the Agra Tenancy Act. But in that Act there is no definition of "agriculture".

Therefore, both the learned Judges of the Allahabad High Court and their Lordships of the Privy Council were, we may take it, considering what is

the meaning of the word "agriculture" in its general sense. I may mention also that in Commissioner of Income Tax, Madras v. Manavedan

Tirumalpad ILR (1930) 54 M. 21: 59 M.L.J. 265 a Full Bench, of this Court remarked that income from cutting timber was not agricultural

income.

4. But for our present purpose I do not think any discussion or investigation of the meaning of "agriculture" in general conversation or as ordinarily

used by educated men is sufficient. We are more interested in ascertaining in what sense the word is used in the Act with which we are particularly

concerned, in this case the Madras Estates Land Act. It happens that there is no direct decision on the question whether the growing of timber and

fuel trees is agriculture as "agriculture" is used in that Act. There are two decisions of this Court in regard to the meaning of "agriculture" and

agricultural purposes" as used in the Transfer of Property Act, to which I may refer. In Panadai Pathan v. Ranaswami Chetty ILR (1922) 45 M.

710 Spencer and Ramesam, JJ., held that a lease of land for growing casuarina trees for fuel was a lease for agricultural purposes within the

meaning of Section 117 of the Transfer of Property Act. If that could be applied to the present case, it would decide the matter in favour of the

defendant. Spencer, J., went so far in that case as to say that agriculture includes horticulture, arboriculture and silviculture. If I may say so with

great respect that appears to me to be using the word "agriculture" in a very loose way. It ignores the first two syllables of that word. It appears to

me to be the result rather of stretching than of defining the word. Ramesam, J., also agreed that the growing of timber trees would be included in

agriculture. But again with the very greatest respect perhaps I may point out that his view of the matter appears to have been affected by the

definition of "agriculture" in three modern English Acts. To use the definition of a word in one Act and to apply it as the definition of that word in

another Act, especially when the second Act is in force in another country and under other conditions, appears to me to be a very dangerous

course. That is a road which, I think it is well known, leads to many pitfalls. On the other hand to compare and contrast the definitions of the same word in a number of Acts is often of the greatest use in determining what is the meaning to be attached to the word in one of those Acts. However, so far as the Transfer of Property Act is concerned, it must be remembered that in *Devaraja Naicken v. Ammani Animal* (1915) 3 L.W. 319, another Bench of this Court, Seshagiri Aiyar and Kumaraswami Sastri, JJ., held that a lease for planting casuarina trees is not a lease for agricultural purposes within the meaning of that Act. That shows that even in regard to the Transfer of Property Act the question is not a very easy one to decide. But what we are concerned here with is, not the Transfer of Property Act, but the Madras Estates Land Act; and, as I think it cannot be denied that in different Acts "agriculture" is used with varying contents and as ordinary educated people use "agriculture" in different senses, the only safe course for us is to try by examining the Madras Estates Land Act itself to ascertain in what sense that word has been used in that Act.

5. There appear to me to be several indications in the Madras Estates Land Act that the growing of timber and fuel trees was not regarded by the Legislature when making that Act as an agricultural purpose. We have first the definition of the word "agriculture" in that Act--" "agriculture" with its grammatical variations and cognate expressions shall include horticulture". Now, as I have mentioned, according to its derivation, agriculture does not include horticulture; but the framers of this Act have said that for the purpose of the Act agriculture shall include horticulture. They have chosen to extend the meaning of the word in that direction. But what is even of more interest to us is to notice that they have not chosen to extend the meaning of the word in any other direction. When we find that the essential, literal meaning of a word is deliberately extended by the framers of an Act for the purpose of that Act in one direction but not in any other, surely that is a clear indication that they wished to exclude any possibility of the word being extended by interpretation in any other direction.. As I have mentioned Spencer, J., thought that the word "agriculture" might include among other things horticulture; but no one, so far as I am aware, has ever suggested that horticulture can include silviculture and

arboriculture in the sense of growing a large plantation or wood of timber or fuel trees. That definition of agriculture in the Act appears to me to be

a very strong indication that the growing of timber or fuel trees is not an agricultural purpose within the meaning of the Madras Estates Land Act.

6. Then, if we look at the definition of "improvement" in that Act, we find that improvement means with reference to a ryot's holding "any work

which materially adds to the value of the holding, which is suitable to the holding and consistent with the character thereof". We must remember

that the holdings referred to are agricultural holdings and their character is agricultural. That definition goes on to say that "improvement" shall

include (subject to the words I have quoted) certain specified things, and among them is the planting of fruit trees and fruit gardens. But u/s 14 of

the Act that kind of improvement may not be made by one class of ryots, non-occupancy ryots, without the permission of the landholder. How

could the planting of fruit trees have been provided for specially as an improvement and have been made subject to that restriction if the planting of

trees generally was an agricultural purpose, which might be carried out by an ordinary agriculturist?

7. Then we have Section 12 of the Act. In that it is provided among other things that

Subject to any rights which by custom or by contract in writing executed by any ryot before the passing of this Act are reserved to the landholder

every occupancy ryot shall have the right...in the case of trees which after the passing of this Act may be planted by the ryot or which may naturally

grow upon the holding, ... to use, enjoy and cut them down, notwithstanding any contract or custom to the contrary.

8. If the growing of trees was an ordinary agricultural purpose, why should it be necessary to provide that the ryot shall have the right to use, enjoy

and cut down trees planted by him on his own holding? That too is an indication I think, that the growing of trees is not regarded as an agricultural

purpose in this Act. But I must mention in connection with that argument that some weight should be attached to the contention urged by Mr.

Kumaraswamiah for the defendant that Section 12 was introduced into the Act for historical reasons, because there had been certain disputes

between landholders and their tenants about the right of the tenants to make use of trees on their holdings. That may detract a little from the use

which we should otherwise make of the words in the section I have mentioned; and the last words of the section show that special protection of tenant in this respect was thought necessary.

9. Then Later in the Act we have the provision in Section 77 and the following sections that, if a ryot does not pay the rent due on his holding in time, the landholder among his remedies has the right to distrain the growing crops of the ryot. That is a very useful weapon for the landholder and one of which he makes frequent use. But, if a ryot in the ordinary course of agriculture can plant timber trees which will not be worth anything for considerable number of years, so far as such a ryot is concerned, the landholder's power of distress will often be illusory. That is perhaps another minor indication that the framers of the Act did not regard the growing of timber and fuel trees in large plantations as an ordinary agricultural purpose of a ryot.

10. Then again there is the provision in Section 151 of the Act that a landholder may institute a suit before the Collector to eject an occupancy ryot from his holding on the ground that the ryot has materially impaired the value of the holding for agricultural purposes and rendered it substantially unfit for such purposes. I take it that "agricultural purposes" in that section means agricultural purposes generally. It cannot be doubted that, if a ryot grew on his holding a large plantation of timber trees and cut them down when they matured, the stumps and roots in the land would render it entirely unsuitable for ordinary agricultural purposes until they had been removed, which could often be done only at very great expense. It is no answer, I think, to that argument to say that, if the growing of trees is an agricultural purpose, the land may still be suitable for growing more trees in the spaces between the trees already cut down. I think the meaning of the section is that the landholder can eject a ryot who makes his holding unfit for agricultural purposes generally, not unfit for all agricultural purposes except one, even if the growing of timber were an agricultural purpose. Such a heavy penalty could hardly have been provided if the growing of timber trees were an agricultural purpose at all. With this provision Section 11 of the Act may be compared.

11. These are five indications I find in the Act that "agriculture" was not meant by the framers of the Act to include the growing of plantations of

timber or fuel trees. Mr. Kumaraswamiah has drawn our attention to Section 26 of the Act. There we find mention of a ryot accepting a puttah

with a rent lower than a lawful rate previously payable on the land on condition that he plants trees. Mr. Kumaraswamiah has urged that the use of

the word "ryot" and the use of the word "rent" in that section indicate that the ryot, who by definition must be a person holding land for the purpose

of agriculture, may plant trees and pay rent for them under the Act as an agricultural purpose. Possibly the use of these two words "ryot" and "rent

in that section may lend a little colour to the defendant's contention in this case. But I think, if we examine the section, we shall see that very little

can be made of that. The section, so far as the planting of trees is concerned, is aimed at providing that a ryot, who holds, or would ordinarily hold,

land for agricultural purposes, may hold the land at a lower rate if he carries out the very useful purpose of planting some trees upon it and that, so

long as he carries out that purpose and fulfils that condition, his rent shall not be enhanced. I do not think we can use the provision intended to

secure reduction of rent to a ryot who plants trees on his holding as showing that the planting of trees is an ordinary agricultural operation. Indeed,

if the planting of trees was an ordinary agricultural operation of a ryot, why should he be allowed a favourable rent when he did it? If the section

is examined as a whole, I do not think it throws any doubt upon the view that the framers of the Act did not include in agriculture the planting of

timber or fuel trees.

12. In my opinion therefore the defendant, though he holds ryoti land in an "estate" under the Madras Estates Land Act, is not a ryot, because he

holds it for some purpose other than agriculture within the meaning of "agriculture" as used in the Act. That being so, in my opinion the learned

District Judge was mistaken in supposing that the jurisdiction of the Civil Court was excluded in this case, and his order returning the plaint should

be set aside.

13. As I have stated, the plaintiff appealed against the award of damages, maintaining that he was entitled to something more. But Mr. Srinivasa

Aiyar has informed us that, after the weary course this lengthy litigation has run he does not wish to proceed with that appeal any further. So far as

the defendant is concerned, although the learned District Judge found in his

favour that the suit should have been brought in a Revenue Court, he dealt with the other aspects of the case, and it is unnecessary to send the defendant's appeal back to the District Court for further hearing.

14. In my opinion the present appeal should be allowed with costs and the decree of the District Munsif restored. In the District Court each party should bear his own costs.

Anantakrishna Aiyar, J.

15. I agree. The plaintiff filed the original suit to recover possession of six acres of land which he described in paragraph 6 of the plaint as

poramboke land of the village of Chhinamapet. He also claimed damages from the defendant. The village of Chinnamapet belongs to the plaintiff.

In 1911 the plaintiff had granted, in favour of the defendant, an ijara to be in force for a term of eight years--Ex. A. Under that document, the

defendant was practically to represent the plaintiff in respect of the plaintiff's rights in that village during the eight years, and this defendant was

authorised under that document to grant puttahs to ryots and to do all other things that would have to be done by the plaintiff but for the ijara. After

the expiry of the period, the defendant surrendered possession to the plaintiff of all that he got under the ijara, but as regards the suit lands the

defendant had planted casuarina trees thereon and consequently he did not surrender the same to the plaintiff. The present suit was accordingly

brought to recover possession of the suit lands with damages. The defendant's plea was that the village was an estate within the meaning of the

Madras Estates Land Act, that the suit lands constituted ryoti lands, that the defendant was a ryot, and that therefore the Civil Court had no

jurisdiction to entertain the suit; and he urged that the plaintiff should have sought whatever remedies he was entitled to in the Revenue Court. The

District Munsif of Sholinghur framed issue I in the following terms: ""Is the defendant a trespasser as stated by plaintiff, or is he a ryot as alleged by

him?"" The third issue was raised as to ""whether the District Munsif's Court had jurisdiction to try the suit"". The learned District Munsif came to the

conclusion that the land was used by the defendant for rearing casuarina trees, and that the land which must be taken to have been let out for such

a purpose could not be said to be let ""for agricultural purposes"" within the meaning of the Madras Estates Land Act. He accordingly held that the

Civil Court had jurisdiction to entertain the suit and that the defendant was not entitled any longer to remain in possession of the land. He decreed the plaintiff's suit for possession of land, and awarded Rs. 20 for damages, and also mesne profits after date of suit. Both parties preferred appeals to the District Court, the plaintiff claiming a larger amount as for damages, and the defendant objecting to the decree in ejectment passed by the Trial Court. The learned District Judge, after remand found--as I understand his judgment--that the defendant should be taken to have been holding this land for rearing casuarina trees. The question was therefore raised before the learned District Judge whether the letting of land for such a purpose would be letting lands ""for agricultural purposes"" within the meaning of the Madras Estates Land Act. He came to the conclusion that it was, and accordingly reversed the decision of the Trial Court, and directed the return of the plaint for presentation to the proper Court, holding that only Revenue Courts have jurisdiction in the matter. The plaintiff has preferred the present Civil Miscellaneous Appeal against the order passed by the learned District Judge.

16. For the purpose of disposing of this appeal it is necessary only to consider the question whether assuming the land to be ryoti land, the defendant holds the land for ""purposes of agriculture"". As was held in Venugopala Rice Mill v. Rajah of Pitlapuram ILR (1929) 53 M. 367 : 59

M.L.J. 74 if by agreement between the parties, a ryoti land is no longer held for agricultural purposes but is held for non-agricultural purposes, then, the jurisdiction of the Civil Court to decide the rights of the parties thereto would not be ousted by the Estates Land Act. Therefore, the argument in second appeal really centred on the question whether letting ""land for rearing casuarina trees"" is letting it ""for agricultural purposes"".

This leads naturally to the discussion as to what exactly is the meaning to be attached to the expression ""agricultural purposes"" occurring in the Act.

Our attention was drawn to various definitions of the term ""agriculture"" which learned Judges have given on various occasions. In Murugesu Chetti

v. Chinnathambi Goundan ILR (1901) 24 M. 421 Shephard and Bhashyam Aiyangar, JJ., had to decide the question whether the lease of land for

the cultivation of betel is an agricultural lease. The question arose in connection with Section 17 of the Registration Act and Section 117 of the

Transfer of Property Act. The learned Judges held that it was; but in discussing the question, Bhashyam Aiyangar, J., at page 425 defined

agriculture"" in the following terms:

Agriculture as distinguished from horticulture includes not only all field cultivation by tillage but also all garden cultivation for the purpose chiefly of

procuring vegetables or fruits as food for man or beast and other products fit for human consumption by way of luxury, if not as an article of diet.

17. The learned Judge thus practically limited the application of the word ""agriculture"" to the procuring of vegetables and fruits which are useful as

food for man or beast and other products fit for human consumption by way of luxury if not as an article of diet. Shephard, J., who agreed that the

lease of land for the cultivation of betel is an agricultural lease, was evidently not prepared to accept the definition of the word ""agriculture"" given by

Bhashyam Aiyangar, J. The learned Judge says that neither the man who planted fruit trees or bushes in an enclosed space, nor still less one who

planted and maintained trees for firewood or other such purpose, could be called an agriculturist. The term ""agriculture"" however is capable of

being applied to tillage of the soil in the widest sense. The learned Judge considered the context in which the expression ""agricultural purpose

occurred in the Transfer of Property Act, and came to the conclusion that a lease of land for cultivating betel was an agricultural lease. The learned

Judge also took occasion to say that the view expressed by him in an earlier case, Kunhayen Haji v. Mayan ILR (1893) 17 M. 98 : 4 M.L.J. 21,

that a lease of coffee garden was not an agricultural lease, was not one to which he was inclined to adhere, after hearing further arguments upon the

question. In King-Emperor v. Alexander Allan ILR (1901) 25 M. 627 Davies and Moore, JJ., referred to various dictionaries as to the definition

of the word ""agriculture"". They referred to the Oxford Dictionary by Dr. Murray, and held in connection with a case arising under the Madras

District Municipalities Act, that lands let for pasture for cattle were lands let for agricultural purposes, in the absence of a definition of the word

agriculture"" in that Act. Sadasiva Aiyar, J., had occasion to consider the definition of ""agriculture"" in two cases, Rajah of Venkatagiri v.

Ayyappareddi ILR (1913) 38 M. 738 : 25 M.L.J. 578 and Sri Ravu Seshayya Garu Vs. The Rajah of Pittapur, Sri Raja Ravu Venkata Kumara

Mahipati Surya Rao Bahadur Varu, . In *Rajah of Venkatagiri v. Ayyappa Reddi* ILR (1913) 38 M. 738 : 25 M.L.J. 578 the question that had to be

considered was whether land leased for pasture for cattle was land "let for agricultural purposes within the meaning of the Madras Estates Land

Act." In deciding the question in the negative the learned Judge observed at page 741 as follows:

The ordinary meaning of "agriculture" is the raising of annual or periodical grain crops through the operation of ploughing, sowing, etc.

18. He reiterated the same definition in the later case in *Sri Ravu Seshayya Garu Vs. The Rajah of Pittapur*, Sri Raja Ravu Venkata Kumara

Mahipati Surya Rao Bahadur Varu, . In *Unde Rajah Raje Sir Rajah Velugoti Sri Rajagopala Krishna Yachendra Bahadur*, K.C.I.E.,

Panchahazar, Muasudar Maharajah of Venkatagiri Vs. Velikanti Rami Reddi and Others, Sir John Wallis, C.J., and Phillips, JJ, had to consider

the same question as regards Lands let for pasture. These learned Judges agreed with the decision in the prior case in *Rajah of Venkatagiri v.*

Ayyappa Reddi ILR (1913) 38 M. 738 : 25 M.L.J. 578 and observed that lands held for purposes of pasture only could not be said to be held for

purposes of agriculture within the meaning of the Madras Estates Land Act. Now, as regards the actual decision in those cases, I do not think that

any doubt could be entertained. The Madras Estates Land Act itself contains indications with reference to pasture lands for the decision of such a

question. In Section 3, Clause (11), when defining "rent" as "whatever is lawfully payable in money or in kind, etc., for the use of land for the

purpose of agriculture," the Legislature thought it proper to include within that term and for the purpose of the Act "sums payable by a ryot as such

on account of pasturage fees and fishery rents". The learned Judges who had to deal with this question naturally laid emphasis on this Clause (11)

of Section 3, and (if one may say so respectfully) properly came to the conclusion that, so far as the Madras Estates Land Act is concerned, land

let for pasture could not be said to be land let for "agriculture", as otherwise there was no necessity for including in Sub-clause (b) of Section 3

(11) "sums payable on account of pasture as 'rent'." There are other indications also in the Act which would go to support the above decisions,

which it is not necessary for me to mention here. Speaking with all respect, it seems to me that the definition of the word "agriculture" in *Murugesu*

Chetti v. Chinnathambi Goundan ILR (1901) 24 M. 421 by Sir V. Bhashyam Aiyangar, J. and by Sadasiva Aiyar, J. in Rajah of Venkatagiri v.

Ayyappareddi ILR (1913) 38 M. 738 : 25 M.L.J. 578 and Sri Ravu Seshayya Garu Vs. The Rajah of Pittapur, Sri Raja Ravu Venkata Kumara

Mahipati Surya Rao Bahadur Varu, could not be accepted for all purposes without qualification. If we look into the recognised dictionaries as to

the meaning of the word "agriculture", all that we find is that "agriculture" means "field cultivation" and "cultivation" is said to be "tillage or breaking

up the soil". There is nothing in the definition of "agriculture" given in the dictionaries which I have been able to consult, which restricts its

application to cases of production of those things only which are fit for human consumption for man or beast as described by Bhashyam Aiyangar,

J. Nor do I find anything which restricts its meaning to the raising of "grain crops" as mentioned by Sadasiva Aiyar, J. When this question came

later on for discussion before this Court in Panadai Pathan v. Ramaswami Chetty ILR (1922) 45 M. 710 Spencer and Ramesam, JJ., found

themselves unable to agree with the definitions given by Bhashyam Aiyangar, J., and Sadasiva Aiyar, J. I am not now, however, concerned with

the definition given by the learned Judges in the case in Panadai Pathan v. Ramaswami Chetty ILR (1922) 45 M. 710. In this connection, reference

may be made to a discussion of this question of "agriculture" and "husbandry" generally in Duncan Keir v. Thomas Gillespie (1919) 7 Tax Cases

473 : 57 S.L.R. 73. However, general definitions given in dictionaries would be of use only when there is nothing to the contrary in the context of

any particular provision of law which the Courts have to construe. Pronouncements by Courts on other provisions of other Acts, however useful,

would not be decisive as authority when we have to construe the provisions of a quite different Act, In several of the English Statutes, viz.,

Agricultural Holdings Act, Agricultural Rates Act, and other similar Acts, the Legislature has chosen to enlarge the meaning of the term

agriculture", as it thought fit, for the purpose of those Acts. It is, therefore, I think, not of real use to go to those definitions when we have to

construe an Indian Act quite different. Our attention was drawn to a case in AIR 1924 1 (Privy Council) where the Privy Council held that lands let

out for cultivation of tea are lands let for agriculture. Similarly, there are cases which show that lands let for producing indigo are also lands let for

cultivation purposes. The Privy Council in AIR 1924 247 (Privy Council) held, with reference to the Agra Tenancy Act, in which I understand

there is no special definition of the word "agriculture" that rearing a grove was not one connected with agriculture. See also Hedayet Ali v.

Kamalanand Singh (1912) 17 C.L.J. 411.

19. As already remarked, one has really to fall back on the provisions of and the indication contained in the particular Act which one has to

construe in disposing of cases like the one before us. I find that the definition of the word "agriculture" in Section 3 (1) of the Madras Estates Land

Act specifically makes it include "horticulture". This, I think, is a matter of very great importance and help in deciding the point before us. If the

Legislature wanted the Courts to understand by the word "agriculture" what is generally supposed to come under its significance in its widest sense,

then its express statement that "agriculture" in its grammatical sense shall include "horticulture" is meaningless, if we accept the view of the learned

advocate for the respondent. If "agriculture," according to this contention, includes "horticulture" and possibly, also others, one cannot give effect

to the inclusion of these words specifically in Section 3 (1) of the Act. There is the legal maxim--*expressio unis exclusio alteris*--that is, the specific

inclusion of one necessarily implies the exclusion of others; so that in the absence of any other indication afforded by the Act, this one circumstance

is, I think, of so great a significance that the contention of the learned advocate for the respondent on this point could not, in the circumstances, be

upheld. But are there any further indications in the Act? Now the definition of the word "improvement" in Section 3, Clause (4), Sub-clause (f)

refers to the planting of "fruit trees and, fruit gardens". If agriculture includes the planting of fruit trees and fruit gardens, the definition of

"improvement" mentioned above is meaningless. If one is, however, at liberty (I have my doubts whether one is) to look into other Acts passed by

the Madras Legislature, one may refer to Section 4 of the Malabar Compensation for Tenants' Improvements Act (I of 1900) where the word

"improvement" is made to include other things also, namely "timber trees and other useful trees"; and in the recently enacted Malabar Tenancy Act

(XIV of 1930) the definition of the word "improvement" given in the Compensation Act (I of 1900) is taken to be the definition for the purpose of

the new Act also. Again, while the planting of fruit trees and fruit gardens is included in the term "improvement" we have not got anything to indicate that the planting of trees as such (irrespectively of fruit bearing) should be considered to be an "improvement". Section 12 of the Act, as I read it, is strongly against the argument of the learned advocate for the respondent. It speaks of trees planted by the ryot after the passing of the Act, and enacts that the ryot is entitled to the same. If a ryot entitled to use the land for agricultural purposes would be entitled to plant trees as coming within the operation of agriculture, as contended for by the learned advocate for the respondent, then a specific provision to this effect in Section 12 is, I think, not likely to have been made, there being no necessity for the same in that view. I am not able to agree with the explanation offered by the learned advocate for the respondent, namely, that it was *ex abundanti cautela* that such a provision was made. From what I am able to see, the first portion of Section 12 would be enough to achieve the object, and, therefore, I think that the indication afforded by Section 12 is also against the view contended for by the learned advocate for the respondent. Again, in Section 6, Clause (4) I find the expression "agricultural crops". I do not find the expression "agricultural grain crops". Therefore to restrict the meaning of agriculture to the raising of "grain" crops, as was evidently sought to be done by Sadasiva Aiyar, J., is, I think, (speaking with all respect), against the indication afforded by the Act, so far as I can gather, from the reference to agricultural crops in Section 6, Sub-clause (4). It cannot be said that the idea of a "forest" was not present to the mind of the draftsman of the Act, for I find the word "forest" used in Section 6 of the Act. If the Legislature meant that the term "agriculture" should also include "forestry," or "rearing of trees", it seems to me that it would have expressly said so, when it expressly included "horticulture" within the purview of the word "agriculture" for the purposes of this Act. I do not propose to attempt a positive definition of the word "agriculture". It is enough for the disposal of this case to say that letting lands for rearing casuarina trees does not come within the scope of "agriculture" as the term is used in the Madras Estates Land Act. As I said, it is not safe to draw any sort of conclusive inference from the meaning of the word "agriculture" used in one Act, when we have to construe another Act; but, so far as they go, the observations in *Commissioner of Income Tax, Madras v.*

Manavedan Tirumalpad ILR (1930) 54 M. 21 : 59 M.L.J. 265-a case that arose under the Income Tax Act--seem to support the contention of

the appellant in the present case.

20. The question there was whether, under the Income Tax Act, amounts received from the sale of timber trees were income liable to Income Tax

assessment. The Court observed at page 267 as follows:

Of course we are unable to distinguish between the income derived from the sale of paddy which is grown on land and the income derived from

the sale of timber cut in a forest; but the profits earned from the sale of paddy would be assessable to Income Tax but for the special exemption

given to that income in the Income Tax Act by reason of its being agricultural income. There is no such exemption in the case of income derived

from the sale of timber.

21. Therefore when there was no definition of the word "agriculture," the Court held that planting trees on land could not be said to be operation

by way of agriculture. In the case before us, we have got this extra indication, as I said, viz., the Legislature has specifically said in so many words

that "agriculture includes horticulture". That being so, it seems to me that it would not, in this Act, include other operations which in the widest sense

of the term might otherwise be taken to come under the same. The question whether the raising of casuarina trees in using lands for agricultural

purposes came up for decision before this Court though not in connection with the Madras Estates Land Act. In *Devaraja Naicken v. Ammani*

Animal (1915) 3 L.W. 319 *Seshagiri Aiyar and Kumaraswami Sastri, JJ.*, had to consider that question in connection with the Transfer of Property

Act and the Registration Act. The learned Judges, held that a lease for planting casuarina trees is not one for an agricultural purpose. The learned

Judges expressed concurrence with the opinion of Shephard, J. in the case in *Murugesu Chetti v. Ohinnathambi Goundan* ILR (1901) 24 M. 421

and they also remarked that "Mr. Ramachandra Aiyar has rightly conceded that in the face of that ruling he cannot successfully contend that the

lease is one for agricultural purposes". This case is to some extent an authority in favour of the view I have expressed. But in *Pamadai Pathan v.*

Ramaswami Chetty ILR (1922) 45 M. 710 *Spencer and Ramesam, JJ.*, had to consider practically the same question, and, as I said, that case

also was not one that arose under the Madras Estates Land Act but under the Transfer of Property Act and the Registration Act. The learned

Judges were of opinion that the decision in *Devaraja Naicken v. Ammani Ammal* (1915) 3 L.W. 319 was based upon admission of counsel, and

they were accordingly not prepared to accept the same as binding. The case before us is not under the general law or under an Act which does not

describe the term "'agriculture'". That being so, I do not think that the decision in *Panadai Pathan v. Ramaswami Chetty* ILR (1922) 45 M. 710

concludes this case. I have already remarked that the learned judges in the case in *Panadai Pathan v. Ramaswami Chetty* ILR (1922) 45 M. 710

referred to the definition of the term "'agriculture'" given in some English Statutes. All learned Judges are agreed that the word has to be construed

with reference to the context, and, for reasons I have already given, it seems to me that the indications given not only by the definition (rather

description) of the word "'agriculture'" but by the other provisions of the Madras Estates Land Act, to which my learned brother has elaborately

referred, lead us to the conclusion that the contention of the learned advocate for the respondent should not be upheld by us. There is a decision in

Vellaypppa Chetty v. Subramaniam Chetty ILR (1926) 50 M. 482 : 51 M.L.J. 880 where *Devadoss and Wallace, JJ.*, had to consider the

question whether cocoanut trees would be "'improvements'" within the meaning of the Madras Estates Land Act. The learned Judges held that they

were not improvements, though they held so with great hesitation. The exact question is not before us. The question before us is with reference to

casuarina trees. I gather that it takes about 8 or 10 years for casuarina trees to mature, that the fruits of these trees (nor the trees) are not fit for

consumption either by man or beast, that they are used for firewood purposes, and that after they are cut, the stumps remaining on the ground

would seriously impede cultivation unless great expense is incurred in removing the same. There is also the idea of periodically raising crops, and

preparing the land--though it need not necessarily be at the end of every year--and of care and supervision involved in operations relating to

agriculture; and from what I am able to gather, the planting of casuarina trees in no way conforms to these ideas.

22. For the foregoing reasons, I am of opinion that this appeal should be allowed and that the District Munsif's decree should be restored, I also

agree in the order as to costs proposed by my learned brother.